

COUNCIL MEETING

MAY 8, 2013

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Līhu'e, Kaua'i, on Wednesday, May 8, 2013 at 9:08 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Ms. Yukimura, and unanimously carried.

MINUTES of the following meetings of the Council:

March 27, 2013 Council Meeting
April 10, 2013 Special Council Meeting
April 10, 2013 Council Meeting
April 17, 2013 Special Council Meeting
April 24, 2013 Special Council Meeting
April 24, 2013 Public Hearing re: Bill No. 2474, Bill No. 2475, Bill No. 2476, Bill No. 2477, Bill No. 2478, Bill No. 2479, Bill No. 2480, Bill No. 2481, Bill No. 2482, Bill No. 2484, and Resolution No. 2013-47, Draft 1

Mr. Rapozo moved to approve the Minutes as circulated, seconded by Mr. Kagawa, and unanimously carried.

CONSENT CALENDAR:

C 2013-172 Communication (04/05/2013) from the County Engineer, transmitting for Council consideration, a Resolution Establishing Temporary Closure Of Through Traffic at 'Eiwa Street, Līhu'e District, County Of Kaua'i: Mr. Rapozo moved to receive C 2013-172 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-173 Communication (04/09/2013) from the County Engineer, transmitting for Council consideration, a Resolution Repealing An Existing Crosswalk On Po'ipū Road Fronting Kōloa Elementary School, Kōloa District, County Of Kaua'i: Mr. Rapozo moved to receive C 2013-173 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-174 Communication (04/09/2013) from the County Engineer, transmitting for Council consideration, a Resolution Establishing A Rapid Flashing Lighting System Crosswalk And An In-Road Warning Lighting System Crosswalk On Po'ipū Road In The Vicinity Of Kōloa Elementary School, Kōloa District, County Of Kaua'i: Mr. Rapozo moved to receive C 2013-174 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-175 Communication (04/09/2013) from the County Engineer, transmitting for Council consideration, a Resolution Establishing Stop Signs And Stop Lines On 'Oloheua Road At Its Intersection With Ka'apuni Road, Kawaihau District, County Of Kaua'i: Mr. Rapozo moved to receive C 2013-175 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-176 Communication (04/22/2013) from Councilmember Yukimura, providing written disclosure of a possible conflict of interest, regarding the proposed Fiscal Year 2013-2014 Operating Budget (Bill No. 2471) – Office of Economic Development (OED) "Other Services" line item for the "Kaua'i Planning and Action Alliance (KPAA) – Economic Plan Implementation (Keiki to Career Program)," as she serves on the Leadership Council that works on this particular program: Mr. Rapozo moved to receive C 2013-176 for the record, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: For the audience, this is an opportunity for anyone to speak on these items. In our Rules, you can have up to three (3) minutes to speak without any questions and answers from the Council. Is there anyone that wants to speak on these five (5) items on the Consent Calendar? Seeing no one, is there anyone in the audience that wants to speak under the same guidelines for any item on the Council agenda? If not, I have a motion to receive and second. Mr. Clerk, I believe through arrangements we are going to be going in a specific order today as requested by members. The first item will be dealing with the final update on the Legislative Package. Our lobbyists are here for that report. Then I think we are, by request, for the Planning Director who is on island but needs to cover this in the morning because of travels to Honolulu. We will have a joint meeting of Planning and the Prosecuting Attorney. On that note, can I have the first item read?

COMMUNICATIONS:

C 2013-177 Communication (03/06/2013) from Council Chair Furfaro, requesting the presence of Scott Matsuura and James Pacopac of JS Hawai'i Consultants, LLC, to provide the County Administration, County Council, and the Department of Water with an overall update on the 2013 Hawai'i State Legislative Session: Mr. Rapozo moved to receive C 2013-177 for the record, seconded by Ms. Nakamura.

Chair Furfaro: Thank you. Gentlemen, I am going to ask you to come up. I will suspend the rules. Thank you both for being here and arranging your calendars as such. Can you both to introduce yourselves for the record?

There being no objections, the rules were suspended.

SCOTT MATSUURA, JS Hawai'i Consultants, LLC: Hi, Scott Matsuura.

JAMES PACOPAC, JS Hawai'i Consultants, LLC: James Pacopac.

Chair Furfaro: Thank you, gentlemen, for your presence today. I will give you the floor for your final report, and then we will have questions and answers from the members.

Mr. Matsuura: I think we submitted a written report.

Chair Furfaro: Yes.

Mr. Matsuura: It is dated May 3, 2013, which covered the items that you requested on your memorandum dated April 3rd. It is quite extensive. If you have had an opportunity to go over it, it might be quicker and easier to answer any questions that you may have, rather than reading the whole report.

Chair Furfaro: Members, have you had time over the last four (4) days to read through the report? If you would like to have the floor, Mr. Hooser, you are recognized.

Mr. Hooser: Thank you for the report. For the benefit of the public since they have not read the report, it might be good to have a brief overview or summary of what activity occurred.

Chair Furfaro: I think that is what I said the first time, and if you simply had listened to my instruction, you would not have to call on someone, gentlemen. You can see that did not make me happy that you just wanted to go directly to. I like to be a happy guy and live *aloha*. Would you follow-up on Mr. Hooser's request since mine was kind of passed over?

Mr. Matsuura: Certainly. As it relates to the Kaua'i County Package that was forwarded to the Legislature, there were two (2) Bills; Senate Bill 552 and House Bill 227, relating to Affordable Housing Credits. Neither of these bills has moved forward. Apparently, there were conflicts between Hawaiian Homelands and the Counties on what the impact would be, Department of Hawaiian Homelands (DHHL) citing financial impacts to their Affordable Housing Program, so the Bills did not move forward. Senate Resolution 3, Senate Concurrent Resolution 3, House Resolution 7, House Concurrent Resolution 4, Urging the Governor and Legislature to preserve the County's share of the Transient Accommodations Tax (TAT). The resolutions were heard but as the session moved forward, there were several bills relating to the share of the TAT, and so the resolutions were held. Senate Bill 554, House Bill 229, Relating to Liability. I think it was relating to lifeguards. Anyway, both of those bills were held. Senate Bill 560 and House Bill 251 were both similar bills and they were both in the HSAC Package, and those bills were heard. Senate Bill 553 and House Bill 228, Relating to Collective Bargaining. Those were not heard. This was creating another bargaining unit for I think the lifeguards as well. The feeling was that they did not want to create another bargaining unit and so neither of these bills were heard. The Kaua'i County Council had several bills introduced as well. Senate Bill 414, House Bill 225, Relating to Energy Resources. Neither of these bills were heard. Similar bills were debated last session and did not move and so similar action was taken this year. Senate Bill 425 and House Bill 226, Relating to the Department of Land and Natural Resources, the repeal of the Public Land Development Corporation (PLDC). Neither of these bills were heard. There was a similar bill, House Bill 1133 was heard and passed as Act 38, which repealed the Public Land Development Corporation. HSAC Package, Senate Bill 558, House Bill 213, Relating to Agricultural Product Branding. These

bills were heard. There was a conflict between Growers, Food Industry, and the Department of Agriculture, citing increased costs and the existing labeling laws that are in effect. These bills did not move forward.

Senate Concurrent Resolution 5, House Concurrent Resolution No. 8, Urging the United States Department of Homeland Security and United States Security General to ease visa the restrictions for the People's Republic of China. The resolutions were heard and moved through both houses. Similar resolution, House Resolution 22, did pass the House, but the rest of the bills were held. Senate Resolution 4, Senate Concurrent Resolution 4, House Resolution 8, and House Concurrent Resolution 7, Resolutions urging the Governor and Legislature to reserve the County's share of the Transient Accommodations Tax (TAT). Again these resolutions were heard; however, they were all held as the TAT distributions in several bills were moving forward. Senate Bill 556, House Bill 211, Relating to Hawai'i Employer Union Health Benefits Trust Fund, Board of Trustees; again, these bills were heard last year and they were debated last year and held so they did not hear these bills this year. Senate Bill 557 and House Bill 212, Relating to Employees' Retirement Systems. These bills were not heard as well. Again, these were similar bills to last year and not passed and therefore, they were not heard this year. House Bill 559, Senate Bill 559, Senate Bill 214, Relating to Traffic Infractions. These bills were not heard. These bills related to the transmittal of traffic fines to the Counties. Again, this issue I guess has been debated in the past and diminishes the revenue that goes to the State, and so these bills were not heard. Senate Bill 750, House Bill 215, Relating to Liability. House Bill 215 was heard and debated. It is in relation to extending the liability exception for County lifeguards. There was opposition by the Plaintiff Attorney group. Basically, I think the idea was that there is an analysis report that is supposed to be ongoing and it should be completed prior to next session 2014. They believe that they should wait until they receive that report. In the meantime, I think the sunset date for the liability exception is sunsets in June 30, 2014. We have reviewed and taken a look at a lot of different measures as it relates to Kaua'i County and HSAC. Both talking to House Leadership, Senate Leadership. Many of these bills, again, were carryovers or bills that were heard last year. Most of the legislators believe that they had enough debate on it and they were not going to hear it or move it forward.

I know there was a question regarding what future actions the County would take in order to move some of these bills in the future. We believe that in order to really push a bill, we need to start a little bit earlier. This year we had a really late start. I think at latest, we should be talking to the State Legislators no later than the 4th quarter of the previous year that the Legislature starts. We also need to have formal planning sessions with the various groups, whether it is the Council, the Administration, and with ourselves in order to try and figure out communication channels, strategies for the bills, and alliances. There are a lot of the different types of coalitions that can be formed in order to really push the issues forward. I think that we all understand similar to what is done here is the Legislature is bombarded with several thousand bills each year at the start, many of whom are similar but it takes them a long time to get accustomed to the different issues. The sooner you can get in there, the better chances you have for moving bills forward. We noticed that in particular, the HSAC proposals sometimes even the communications between the Counties are not as good as they should be. We have seen where various County departments have actually opposed HSAC bills. I think if the move is started earlier enough, a lot of those things can be weeded out and settled prior to introduction and that will help the chances of moving the bills forward. I think the Legislators get

very frustrated when they see a County package that County departments oppose. It kind of affects the entire credibility of the whole organization, I think, at times.

Chair Furfaro: Whose credibility? Ours or theirs? I am serious.

Mr. Matsuura: I think it is probably both. They get upset and everybody else gets upset. Again, that does not help anybody one way or the other.

Mr. Rapozo: I want to just make a clarifying statement, just because HSAC is being recognized. I am not sure what you mean by that statement. HSAC is for the Councils, and not the County departments. Much like the HCOM, the Hawai'i Council On Mayors. They have proposals on there that I think some County Councils may not agree with. That is the nature of the beast. When we meet at HSAC, the Councils are represented from each County and they come up with a package. HSAC does not seek to get approval of departments. It is not designed that way. There are often times where matters that show up on the HSAC package will not show up on the Mayor's package or the County's package, for whatever reason because it may not affect all of the Counties. It may affect one (1) or two (2) Counties. Last year was a good example. HSAC as well as the Council's package had the TAT's preservation. The Mayor refused to support it. That did not show up as the County package, but it showed up on HSAC, and that is going to happen. That is just the way this operation works. I am not sure what you are recommending that HSAC should go seek approval from the departments because that is not going to happen. That is why it is difficult in your position because you are lobbying for the County, and not HSAC. I appreciate the lobbying efforts for HSAC, but as we talked about it the last meeting if there is a potential conflict, if in fact there is a conflicting bill between HSAC and the County, your job is lobby for the County and not HSAC. There should be no conflict. Until there is such a time where HSAC can afford a lobbyist, then they will focus on HSAC but until then, this is just a necessary evil because HSAC does not take into account—we do not seek to get approval, if you will. If the County department is not aware of what is on the HSAC package—everything on the HSAC package gets approved by each individual Council. Every Councilmember should know, whether they agree or disagree, it is the majority. Everybody should be aware on the Council's side, and maybe not the Department side, but again that is just the nature of the beast. Thank you, I just wanted to clarify Mr. Chair.

Chair Furfaro: No, I think that was important. The fact of the matter is if something got on the HSAC agenda, it meant that all four (4) County Councils agreed to it. It has nothing to do with the Mayor's department heads and so forth. It means the elected leadership of the four (4) Counties agreed on those items. Thank you for the clarification and your acknowledgement of that particular piece.

Ms. Yukimura: I think what you are trying to say—and I am asking this as a question, is that if we want the measure passed, it is really helpful to have some unity at that level because I worked on the Solar Water Hearing Bill and we got it passed through...from the Senate into the House. It failed there because there was testimony against it by the Building Divisions, which represented the Mayor. That is what stopped it. You are just trying to help us know how to get things passed?

Mr. Matsuura: Yes. That was the question that was posed. We are just pointing out that the least amount of opposition that there is to any measure, whether it is HSAC or whether it is from anybody, the easier the package to getting something passed and just recognizing that there are going to be those conflicts. Like I said, I do not think it is seeking approval from the Administration or from any of the departments. One (1) of the problems that always occurs—is this something that usually stops the bill in its tracks. The question was, “What are some of the issues”...

Ms. Yukimura: Did they ask, “If Kaua‘i County is pushing it, it was part of the Council’s so why are we getting testimony from Kaua‘i County against it?” That was the problem. Thank you.

Chair Furfaro: Gentlemen, I would like to say that there are some key items that year after year, after year, after year; there is a lot of agreement on our side and we cannot get through to the Legislature. For example, in the Visitor Industry, three (3) years ago; they had three percent (3%) growth. Last year, they had nine percent (9%) growth, and this year they had seven percent (7%) growth. Those are the three (3) years that the first TAT bill was allocated of changing our share. It is pretty substantial growth followed by almost a six point eight percent (6.8%) growth in the average daily rate. You have growth in occupancy and you have growth in rate. We agreed to resolve the problem, so we would go with the three (3) year cap for us. What did we get out of it? We have a permanent cap now. Permanent. What does that mean to the County of Kaua‘i? We went from thirteen million dollars (\$13,000,000), the temporary cap amount on a potential of fifteen million seven hundred thousand million dollars (\$15,700,000) in revenue. All of that additional revenue went to the State for three (3) years, but now we can never get back to where we are at. I think between the Counties, Maui County, Hawai‘i island County; it is now permanent. Permanent. There was unanimous support from the Counties. The fact that the burden for parks, recreation, basic services through our transportation system, expansion of our bus, and so forth and we find ourselves having a quick look, and we basically were short eight million one hundred thousand dollars (\$8,100,00) in those three (3) years that all went to the State. Because we survived it for the right reasons, doing the right things for the right people, the reward was, “Oh, it is now permanent.” There was no opposition to that from the Counties. There was no opposition about the Unions representation for our lifeguards. There was no opposition from the Counties on getting a share of the traffic citations. There was no opposition from the Counties to have additional representation on the trust funds. The score is lose, lose, lose, lose. It is very concerning for me, representing my County, that we could not make any progress. We will be right back there again next year. Your comment about getting an earlier start is understandable. Hopefully we get some of these other things worked out. These are big variances for a County that has a one hundred fifty-eight million dollar (\$158,000,000) Operating Budget, and we lose eight million one hundred thousand dollars (\$8,100,000) in three (3) years; that is substantial to us. I just wanted to share with you that we need to have a better approach on this. That is all I am going to say to you on your report. We have got to look at the ones that we need to win. We need to convey to them the importance of us to maintain a level of stewardship for the visitors that we have here, especially when the increases are exactly the numbers that I shared with you; three percent (3%), nine percent (9%), and seven percent (7%), over the three (3) years that we agreed to.

Mr. Bynum: A lot of us made strong efforts to track the Legislature this year. I know I had the most difficult year ever doing that.

Yesterday, I heard that a bill passed related to the cap and Post Employment Benefits. Our County has been funding our obligations to our retirees. We are the only County—it turns out that Maui may have been doing that differently by putting money in trust. We just learned that this year. I was told yesterday that the bill passed, awaiting signature, and in a couple of years would require the Counties to make those contributions or they will take them from the TAT. Do you know about that bill? How come I did not know about it? How come that is not one—this is huge for the County. My understanding of the bill—I have not even seen it. I do not even know the number. My understanding is that it does not apply to the State. The State can continue to neglect their payments to their retirees, but they are forcing the Counties to do that. Is that your understanding? Can you tell me more about that bill?

Mr. Matsuura: I think the bill you are talking about is House Bill 546.

Mr. Bynum: 546?

Mr. Matsuura: We have it written up on page 6.

Mr. Bynum: Page 6 of your report?

Mr. Matsuura: Yes.

Mr. Bynum: They are requiring full payment of our contributions, which we have been doing, and trying to find out if those moneys are secured or if the State can scoop them up some day when they run into their brick wall. I am very proud of our County for financing those, both the Council and the Administration, over the entire time I have been here because we are making sure there is not some fiscal time bomb for some future Council that none of us will be on. That is acting responsibly. Do you agree? This bill requires the Counties to do that, but not the State, is that correct?

Mr. Matsuura: No, I think it is both the State and the Counties.

Mr. Bynum: Okay. I just found out about this bill yesterday. I would have been writing testimony on it, had I known about it. I agree with the Chair, and I want to pass out to you guys and our Staff, some analysis on the impact on the TAT over the past years. I would like to pass this out to Councilmembers.

Chair Furfaro: May I just say something? I have a letter from the State as it relates to the pool of money because we were pursuing an idea about trying to put an escrow set aside for our liability and so forth, and I need to share that with you because none of us were happy with their response. They are treating it as a pool for everybody and besides us and Maui, nobody else has covered their liabilities. Thank you, Mr. Bynum.

Mr. Bynum: This is from the last couple of days and we tried to do this analysis. I think it is accurate, I am pretty sure. This County right now is dealing with a very difficult Budget, because we are chasing revenues. Right? The Legislature—our estimate of the impact on this cap next year is nine million two hundred thousand dollars (\$9,200,000). That is almost the entire deficit that we are

trying to deal with in our Counties, so we have to increase property taxes and fees, just to maintain a reduced level of services that we had because of the downfall. Can you tell us what our State Legislators voted in conference committee on these various bills? If I have this right—TAT is a great example. There were fifteen (15) different proposals, and how did the decision finally get made? In a conference committee. Is the public invited to attend those conference committee meetings? Are there transcripts of those conference committee meetings that we can access? This is just the wrong way to do business for the State Legislature, to leave the entire world hanging until one (1) meeting. I will not go into all of the bills, but the bills that made it way through the Legislature passed out of both committees, went to conference committee and were gutted, totally changed, all at the last minute with no public notice, with no public input. The public is not allowed input at conference committee, correct?

Mr. Matsuura: Correct.

Mr. Bynum: They are not?

Mr. Matsuura: They are not, yes.

Mr. Bynum: You track these bills. You testify. You do all of this work. You watch them. They pass through committee and they pass through this committee and this committee. They get sent to conference with very little differences between the House and Senate, and then four (4) members or five (5) members of a conference committee totally change the Legislation and take major sections out, put new sections in. Why do we even have a Legislature in public hearings? I am serious. It does not make any difference does it in the long run? That was a question. I was expecting your perspective. We paid you a lot of money to track the bills this year. Does it make any difference in your opinion?

Mr. Matsuura: Sure. Having input, I think is a big deal. Yes, they have a specific procedure and process that they go by.

Mr. Bynum: I am not trying to hold you accountable for the Legislature.

Mr. Matsuura: That apparently is the question—I do not know how to answer that question.

Ms. Nakamura: I do not think we are going to solve this issue around this table today. Councilmember Bynum, do you have another specific question relating to this or can I go to Councilmember Hooser?

Mr. Bynum: Can you follow up and let us know how our Legislators voted on these issues that we were tracking, particularly in conference committee?

Ms. Nakamura: Do you have that answer now?

Mr. Matsuura: No, I do not have that answer right now.

Ms. Nakamura: We will put it in writing to you.

Mr. Matsuura: Staff, I am sure you can go on the Legislature system. They have all of the access to that same information which has all the voting records as well.

Ms. Nakamura: Councilmember Hooser.

Mr. Bynum: I was not done.

Ms. Nakamura: He has a follow up to your question.

Mr. Bynum: Okay.

Mr. Hooser: Those are good questions about the conference committee and if I could just expand a little bit. The votes are public. They are on the web. There is no public testimony except that there is dialogue to the back channels, as Mr. Pacopac has referred to in the past, but there is no public testimony and there is no transcript, except of the votes. I just wanted to clarify that from my experience and I will ask questions after Councilmember Bynum is done.

Ms. Nakamura: Councilmember Bynum.

Mr. Bynum: Our calculation based on Hawai'i Government Employees Association (HGEA) estimates is in next Fiscal Year, the cap will cost us nine million two hundred thousand dollars (\$9,200,000). Does the Legislature understand that they have funding sources that recover quickly when the economy turns, like TAT, and GE. TAT is the only thing that we had that recovered quickly. We, the Counties, do not have funding sources so we are hitting the hard times now. Do they understand that that there is a big difference between how we are funded and how things turn around?

Mr. Pacopac: I am sure they do. They do understand and they do the same thing that you folks do with your budgets. When it comes to crunch time and they look at where we can get the money, unfortunately, they are taking it from the Counties. A lot of the Legislators are saying, "If they need more money, we will give you the taxing power to let you go raise the taxes, and you can get your money to fund your Budget." That is their attitude.

Mr. Bynum: I will just close with a comment. I have heard those responses. With TAT, we host visitors at a very high percentage.

Mr. Pacopac: Yes.

Mr. Bynum: We had four (4) helicopter rescues last weekend. That impacts our Budget, right? Now we are facing criticism about raising fees. What the Legislature has told us is that, "Hey, you know those visitors that you are hosting? You guys pay for them. Get that money with a sales tax or with taxing your local citizens more." This is a huge, huge change in the way that the Counties operate because they have tried to make this cap permanent. It is just wrong.

Ms. Nakamura: Any further questions? Councilmember Hooser.

Mr. Hooser: Yes. Good morning, gentlemen. I just have a few quick ones. One (1) is to follow up a little bit on what the Council Chair and Councilmember Bynum said or implied, that arguably the Council has been kept informed as to issues as they proceed through the Legislature. There are issues such as the TAT one that he mentioned that if we would have known about it, we would have activated our networks and our relationships to support the work that you are doing on behalf of the Counties. I think that is a major flaw or weakness and how the process may not be working. We have resources here at the table and we want to engage, but we are not there, as you are. We are tracking as best we can, and so I think being kept informed is a critical element on issues that are important to the County. That is number one (1). Number two (2), Councilmember Rapozo mentioned that the values or the objectives of HSAC do not always align with departments. It is my experience that the positions of the departments rarely align with the positions of Legislators. Departments never want to do more work without more money. I am not surprised that our Buildings Division does not want to work on the Solar Bill. That to me is not the question so much as it is our lobbyists, what are you folks doing to resolve that issue? My experience has been when those kinds of situations, then someone representing the County, yourself, would go to Buildings Division or whoever is objecting and say, "Guys, what is the problem? Can we work this out? Can we meet you halfway and then come back to Councilmember Yukimura or others and kind of work through this issue. That is my question on both the lifeguard issue, as well as the solar issue. In any other priority issues that you worked on for the County, what actions did you undertake to attempt to resolve these issues directly?

Mr. Pacopac: I think there are issues as they arose and the opposition where it arose. It is not likely we will go to the departments. We will talk to them because they see all the testimony and they know where the Council is headed. They are looking at it from their point of view, where they feel "where is the compromise?" You guys are totally different from where they are coming from. We have worked with some of the departments and, in fact, we have also gotten back to Paula, who handles all of the departments that we work with. We would advise them of the situation on the bill and why is the department opposing—exactly what you said, "Why are they opposing? What is the problem?" Their problems are more of a technical nature and I think you guys are more policy. We have been talking to a lot of the departments that oppose the bills that you have mentioned but again, they are coming from a different position than you folks are.

Mr. Hooser: Were you able to recommend possible compromise solutions?

Mr. Pacopac: That was the hard part with them. When they say, "No, we cannot do this because of this"...of course, our major question is, "Well, what can we do to make it a better bill without making the bill totally not good for you folks?"

Mr. Hooser: Right.

Mr. Pacopac: They will not come to a compromise. That is why what Scott is mentioning, and that was in answer to your question on how we can get better results, that was one (1) of them. We need to communicate better with them and maybe earlier, maybe we do have time because when session is running, it is very hard to tie them down and get to the situation on what we are trying to do. If we can work it out before the session starts, then we will not have that problem.

Mr. Hooser:

Were you going to say something?

Mr. Matsuura: I just think that a lot of times, we are kind of tasked really to work with the Legislators. Some of the issues that conflicts between the Council or HSAC proposals and the various departments is that we advise them that these are kind of the problems that are going on, and maybe we should be doing more but it is a little harder for us to get in touch with the departments. We are passing the information on to the Administration here and hopefully they would be able to work with the departments or the appropriate people to resolve some of these differences and conflicts, and bring it forward to us so that we could pass it on to the lawmakers so that they could work it out amongst themselves. There are different parties involved that are involved in this process, just like what happens at the Council. To expect us to do all of it is a little bit overreaching. We can only do so much.

Mr. Hooser:

Right.

Mr. Matsuura: That is why if we start early enough and we see these things, I think resolving some of these things might be a little bit easier and give people more time to debate the issues.

Mr. Hooser: Yes, I appreciate that. To be clear, I do not expect you to do it all. I expect to be informed and I expect you to facilitate solutions on the key, priority bills and facilitate the dialogue between, rather than saying this bill is dying and this bill is passing; but how do we make it work and that is what my expectations are. Thank you.

Mr. Pacopac: I think what happened this year was that we did have a communication problem. We thought we were forwarding the information to the Administration, and we thought that all of the information was being forwarded to you folks. Now we find out that it was not, so we will correct that and maybe work better with Ashley to see how we can further be more proactive with you folks so that you guys are not caught behind the 8-ball again. It is just that that is just what happened this year. It was not done purposefully. We thought you were getting the information.

Mr. Hooser: To be clear, keeping us informed is a big part of it, but other bigger part would be or as big I should say is facilitating compromise solutions rather than carrying messages back and forth. You are there, you are on the inside and you talk to both sides. I would hope that you could propose meeting halfway, not on every single bill on your list, but certainly important ones important to the County like the lifeguard issue, the solar bill, and many others or at least the top five (5). Because after all, I think your success is measured by bills that you pass or kill. Just giving reports and keeping us informed is important, but that is not a measure of your talent, I do not believe. Thank you. I will let others talk.

Ms. Nakamura:

Councilmember Kagawa.

Mr. Kagawa: I just have a few questions. How many other Counties do you guys represent and lobby?

Mr. Pacopac:

Only Kaua'i.

Mr. Kagawa: Have you guys represented Maui or Hawai'i island in the past?

Mr. Pacopac: No.

Mr. Kagawa: How many years have you guys been doing Kaua'i's?

Mr. Pacopac: About three (3) years.

Mr. Kagawa: Okay. Was there a threat this year with the Legislature saying that they wanted to reduce maybe the TAT or even take it away? Or was this year pretty consensus that they would keep it at the same level?

Mr. Pacopac: Well, the discussion as it went through the Legislature, as was mentioned that everything came down to the conference committee. At that point is when they were solidifying their budgets and when they solidify their budgets they know how much money they need and where they are going to take the moneys from. Most of the talk was really about several Senators or some of the leadership people were saying exactly what I told Councilman Bynum, "If the Counties want more money, we will allow them to tax their own people." I know that is not a solution but as far as the amount, they did make the cap permanent and they did keep almost the same level as you guys had last year.

Mr. Kagawa: I think the uncertainty of the Federal government and the State government, the County—we were just hoping that we had at least that amount back and I thank you for getting that same amount, but I find myself now—they had a surplus this year, right? I was at Governor Abercrombie's announcement in Puhi that he is going to run again, and I think it was three hundred million dollar (\$300,000,000) surplus?

Mr. Pacopac: About there, yes.

Mr. Kagawa: I guess things have turned around a little bit for the State and taking workers off the furloughs and even giving increases. Maybe next year would be a good time to ask for more to get more in line with Councilmember Bynum's trend. If we can follow that line up, at least, it would be a little more reasonable. Not to get the whole thing but now that we are capped, we are just separating...

Mr. Pacopac: We will push again to get rid of the cap. That was something that we did not want. Although they finalized it, next year is always another bill to take the cap off, if we can and depending on the economy and all of the moneys coming in.

Mr. Kagawa: At the minimum, we have changed places. We were the ones doing better and I just kind of found the questioning of Councilmember Bynum kind of funny because it seemed like he pictured Senator Kouchi, Representative Tokioka, Kawakami, and Morikawa in those seats because I think a lot of the concerns he had was based on decisions that the Legislature made. It is not your job to vote or contact us. I think the position we are in—for myself, when I have a problem with the Legislature, I just call the Senators that I feel are most responsible and most helpful in my area. I have pretty good success. I think Senator Kouchi and Representatives do not like to see my calls most of the time

during session because normally I have a complaint with them. In the past, we did not have lobbyists, right?

Mr. Pacopac: Yes.

Mr. Kagawa: That was the direct way. You lobby as a Councilmember to your Legislator. Is that the proper way in a lot of instances?

Mr. Pacopac: It used to be that way, yes. Again, lobbying at the Capitol is a different animal. You folks sometimes may not persuade the Legislators as you think you would. I have heard from a lot of Legislators that they get irked sometimes by the Councilmembers.

Mr. Kagawa: The thing is, and I raised a lot of eyebrows early in my seat here on the Council when we were talking about Genetically Modified Organisms (GMO) and I said, "If the Legislators are not doing anything about it, because it is a State and Federal function then maybe we should think about running for that seat and that would be a direct way that we can make that difference." I kind of offended some people but it is a reality. When we are giving advice on a function that we do not have, it is easy to criticize after the fact. I have another question. I know one (1) of the things that Governor Abercrombie was really raving about was that we got a Grant-In-Aid for one million five hundred thousand dollars (\$1,500,000) for the Filipino Cultural Center and we got one million five hundred thousand dollars (\$1,500,000) for the Mānā race track. Those requests come from the Legislators themselves and their constituents, right? That was not in our package with you guys.

Mr. Pacopac: Right. The Grant-In-Aid comes from the constituents or agencies that they try to help.

Mr. Kagawa: One (1) of the biggest problems that I have—and I like to compare because we pay the same rate of income tax. I like to compare Kaua'i with O'ahu or Maui and stuff. In O'ahu, a lot of schools have their own lighted stadiums and baseball fields. In Kaua'i, for years from the 60s, our high schools use our County facilities, but we do not get any more than Honolulu. I feel because we are far away and smaller, on the sports end for our youth, the County foots the bill. I would like to see the State kick in portions to either fix the fields or build their own stadiums for their high schools like they do on O'ahu. We got to have either or to be fair. That is all I asking. I am not asking for Kaua'i. Let us just have our share. I think right now, that is another thing I would like our Legislators, State legislators to work on. I think it is clear that there is a difference. Has that ever been brought up?

Mr. Pacopac: I do not know. I really do not know whether that has been brought up.

Mr. Kagawa: That would be one (1) of my big issues going into next the Legislature Session, which is for the County to get some funding that we have not been getting for many years. We are the ones that host every large high school event. The school does not pay for the electricity. They do not pay for the maintenance. We do not charge them any rent either. To me, it is not a bad thing. My passion is taking care of the youths and the sports, but the State needs to kick in their share. I think they have overlooked Kaua'i for a long time. Thank you.

Ms. Nakamura: Thank you. Councilmember Yukimura.

Ms. Yukimura: Yes. I want to go to the HB 546 relating to the Hawai'i Employer Union Health Benefits Trust Fund. It says here that the bill passed, and I presume is on the Governor's desk for signature?

Mr. Pacopac: I would assume so.

Ms. Yukimura: It convenes a task force within the Department of Budget and Finance in the State (DBF), to examine the unfunded liability of EUTF; the health benefits trust fund.

Mr. Pacopac: Right.

Ms. Yukimura: "Requires the EUTF Board to establish a separate trust fund to receive employer contributions to prefund other post-employment health and other benefit plan costs for the retirees and their beneficiaries. Requires public employers to pay actuarially determined annual requirement contributions to the trust fund." Does that mean that you cannot kick the can down the road? They have to pay?

Mr. Matsuura: That is my understanding.

Ms. Yukimura: It applies to both the State and Counties?

Mr. Matsuura: Yes, that was my understanding.

Ms. Yukimura: Apparently, it is requiring the State and the other Counties to do what Kaua'i County is already doing?

Mr. Matsuura: Yes.

Ms. Yukimura: Is there a time where they have to make everything good by next year? This is a huge bill for the State, right? What is it—in the billion?

Mr. Matsuura: I do not know.

Ms. Yukimura: What is it?

Mr. Hooser: I think it is five hundred million dollars (\$500,000,000).

Ms. Yukimura: Five hundred million dollars (\$500,000,000) a year?

Mr. Matsuura: I guess.

Ms. Yukimura: What does it mean to establish a separate trust fund to receive employer contributions to prefund the costs for retirees and their beneficiaries?

Mr. Matsuura: Councilmember, I will not pretend to be an expert in the area. The interpretation of the bill—the bill is pretty thick.

Ms. Yukimura: All right. I was going to say if the Governor signs the bill, Chair, perhaps we should have a separate item placed on the agenda to discuss this. Actually, we could either encourage the Governor to sign it or to veto it so we may want to understand it even better before he takes action.

Mr. Matsuura: I think that is probably very prudent. As you can see the next item on that same page, Senate Bill 946 also involved unfunded liabilities for the State and Counties. In the end, both of these bills are moving together. One (1) is creating a task force and one (1) is creating a captive insurance company to actually do the financing and do some of the other issues as pertains to EUTF.

Ms. Yukimura: EUTF being the pension fund?

Mr. Matsuura: Right. Previously, we were talking about the health fund.

Mr. Matsuura: Both of these kind of look at the same issues of unfunded liabilities. Senate Bill 946 for some reason died on the Senate floor and did not move forward. There may be particular issues as it relates to the issue of unfunded liabilities that may actually now be creeping into 546.

Ms. Yukimura: Okay. Our concern has always been while we are paying in full, that if the trust goes bust, our retirees and employees are not going to be covered. We have even gone to the point of encouraging the Administration to get Special Counsel to advise us on this. I have not seen any action and if no action comes, I think the Council should get Special Counsel because we need to know these issues in terms of our lobbying package, and for the welfare of our employees and retirees. Chair, if it is possible, can we get a full briefing as a separate agenda item?

Chair Furfaro: I just made a note to myself.

Ms. Yukimura: Okay.

Chair Furfaro: That will be my intent and it will be a follow up on my earlier correspondence to the State. I think I distributed that to you folks a while back.

Ms. Yukimura: Thank you very much. I have other questions.

Chair Furfaro: Mr. Bynum wants to do a follow up question.

Ms. Yukimura: Okay.

Chair Furfaro: Then I will give the floor back to you.

Mr. Bynum: After reading this more closely and looking on the iPad, 546 does include the State, it appears. I have to look at it closer, but it may be a good bill that I would support because the County has been doing that; we have because it is responsible. Our big concern, and apparently Maui's too is that we are making our contributions, under the assumption that it will go for County of

Kaua'i Employees. Our fear is that the State, who is in huge arrears on this, and if you look at 946—when the stuff hits the fan, let us find a new mechanism to fund the State's liabilities, it appears. We are worried about them scooping it and Maui felt so worried apparently that they put their funds in a separate trust. Under this bill, they would have to make payment to the State or the State would take their limited TAT, their capped TAT. This is very important for the Counties to work out because now they are going to say, "Hey, you cannot do what Maui is doing. You have to put the funds in here." I know this has happened in other states, where the State has scooped up funds, even put in by their employees, much less put in by the Counties. This is a critical, critical follow up we need to do. This may be a good bill if it makes the State do their job and the other Counties, but it also makes it important for the County of Kaua'i to maintain our conservative approach to this, or else they will do it for us. Thank you.

Chair Furfaro: Since this is going to be a separate item in a future agenda, I do not want to belabor it anymore because there is a flipside of what Mr. Bynum said. That whole bill might be about not letting Maui have a separate escrow account. That is what it might be all about, but we are going to have this as a separate item, and I am going to share with you, Jimmy, the correspondence that I had back from the retirement system when I raised the question about Kaua'i. We have funded one hundred percent (100%) of our liability and they basically said, "No, it is going into a pot. You cannot isolate it for yourselves." I will get you a copy of that letter, but I want to move on to another item and we will do this as a separate piece.

Ms. Yukimura: Thank you. On SB 568, HB 215 regarding liability; that is the lifeguard's bill, right? You say here that an analysis is being done. Who is doing the analysis?

Chair Furfaro: I have a housekeeping note folks. We have a full agenda today and I would like to get through this review by 10:30 a.m. That is twenty (20) minutes from now. Then we have to go right into the joint meeting with the Prosecutor's Office and with the Planning Department.

Ms. Yukimura: Do you want to submit that information later?

Mr. Matsuura: The issue of the report was in testimony as something that was added to the bill in the past, when they passed the bill relating to the liability exception.

Ms. Yukimura: Okay.

Mr. Matsuura: I can get that information.

Ms. Yukimura: Okay, because that analysis will be important. The sooner we get it, the better, so we know how to argue our points and frame our approach.

Mr. Matsuura: My understanding was that there was a preliminary report that was already put out in draft form that spoke specifically to the extension or making it permanent, but because it was not a final report, the Legislature determined that they would wait for that final report.

Ms. Yukimura: Are you aware of what the recommendations were in the preliminary report?

Mr. Matsuura: I have it somewhere in here.

Ms. Yukimura: To me this is going to be important homework for us, if we prepare to lobby on this issue again. The expiration date is next June, so this coming Legislature is the time we have to get some decision, hopefully, the one we want as a County.

Mr. Matsuura: Yes.

Ms. Yukimura: Okay. I have one (1) question about the PLDC bill.

Chair Furfaro: Go ahead.

Ms. Yukimura: Hooray that it was repealed, but you know how parts of bills get resurrected in other bills. My question is did that happen in other bills?

Mr. Matsuura: Not that I know of is the best answer I can give you.

Ms. Yukimura: There was something about developing school property. In fighting on the PLDC Bill, I did tell the Governor and others that they need to narrow it down to some clearer specific lands or projects. If you get any information on that, we would like that too. Thank you.

Chair Furfaro: Mr. Hooser, you have the floor.

Mr. Hooser: I just want a follow up clarification because I was also following these bills. It is my understanding that a bill passed allowing a pilot project for three (3) schools in State, but did not allow any exemptions that were one (1) of the main sticking points for the PLDC, just for the record.

Chair Furfaro: When this comes back, we will have it in your committee as well. Mr. Kagawa.

Mr. Kagawa: I have to ask this question. Regarding in the future, and believe me, I think with our requests for next year going up asking for the repeal, I really want you guys back. I think having connections is the key to having good lobbyists. I think money is the most important issue for Kaua'i in regards to the State and I think you guys are the guys to bring back. We have a hot topic with GMOs and the lack of effort on the State's part in providing evidence or information to the public, Councilmember Hooser, and to me, of "When are they spraying?" "How often?" "What they are spraying?" We have heard various excuses, but to not go into too much detail; you guys represent Syngenta. We found that out. What would happen, if we have an issue that maybe affects Kaua'i in regards to any bill that affects reporting or spraying? Would you guys say, "Well, we are not lobbying on the part of Kaua'i County." Would some kind of disclosure like that be made just to be upfront that we do represent Kaua'i County but on this issue, because we also lobby for Syngenta, whatever testimony we made is for Syngenta

and not Kaua'i County testimony? Can we work something out like that where the Legislature would know that you are not representing the County on those issues?

Mr. Pacopac: We have not gotten into a conflict so far. When we do get the County's package on the bills, there has not been a conflict on any of the County's bills relating to Syngenta. As I mentioned the last time, we did mention that if there was to be a conflict, yes, we would have to acknowledge that. We would have to advise you folks and also the Legislature and also Syngenta that we are not able to move forward on that.

Mr. Kagawa: I do not have a crystal ball, but I see some coming in the future that will have conflicts...in the very near future. I just want to make sure that we do not toss you guys aside because of something that we can have a rectifiable solution to.

Mr. Pacopac: It can be worked out.

Mr. Kagawa: We cannot expect you guys not to have any other business than with the County because who could survive on just that? But definitely, should not represent us if there is another side to it. Thank you, *mahalo*.

Chair Furfaro: I am getting ready to think we should go to public testimony on this but before I do, if anybody has one (1) more question, you may speak.

Ms. Yukimura: Kaua'i County on the Affordable Housing Credits—a couple of years ago the Legislature passed this law, allowing Department of Hawaiian Homelands (DHHL) to basically take our Affordable Housing Zoning requirements and use it on their lands, even though they do not have income requirements and even though this have quantum requirements that a majority of the people on the island cannot qualify for. You say here that DHHL cited financial impact on DHHL's ability to produce Affordable Housing for Native Hawaiians. What do you mean by that?

Mr. Matsuura: I think what DHHL is doing with the Affordable Housing Credits is to turn it over to private developers, I think. They are selling their Affordable Housing Credits so they utilize those funds to develop additional lands for Native Hawaiians.

Ms. Yukimura: Okay, so the State agency is taking the County's ability to provide affordable housing and using it for their purposes, basically? Right?

Mr. Matsuura: Yes.

Ms. Yukimura: Even though we have zoning requirements that say, for example, Kukui'ula needs to build housing close by in Po'ipū where their impacts are, and those could be use in Anahola and only for a limited group of people, some of whom do not have to be low income. This is like wholesale grabbing of County ability to produce housing, and using it—they actually consider that a rational reason for taking the powers away from us?

Mr. Matsuura: I cannot say whether or not it was a rational or irrational decision on their part.

Ms. Yukimura: What is happening here is this picture of them taking—we supply so many services to the visitors but they are limiting our ability to provide those services by taking away funding from the tourist tax. Now they are taking away our ability to provide affordable housing, as well for their purposes. As I think we said in our bill, it is not a way to work together. We have the same constituencies, we have similar problems. We could maximize our resources by working together and instead, we are fighting each other and taking from each other. That just does not make sense and I know you cannot answer those questions. I wanted to understand what DHHL's reasoning is because that is what we have to do if we want to make some changes.

Mr. Matsuura: Yes.

Ms. Yukimura: Just to you know—maybe you already know, but the public may not know is that in our ordinance, we have said that our Affordable Housing Credits can be used to a certain extent to help housing on DHHL but it has to be with our consent so we can make sure that it works for both sides. In this case, in this Legislation, they are just unilaterally taking and not working with us to work together. Thank you very much.

Chair Furfaro: Okay. We are getting close to the 10:30 a.m. mark. We are going to take public testimony, but I think Mr. Bynum wants the floor again. You have the floor, Mr. Bynum.

Mr. Bynum: For this housing issue, I understand that they could use those credits on another island, right? That is a question. Under this bill, like JoAnn's example is that we have credits for Po'ipū. They could take the credits and use them in Anahola. I think they could take the credits and use them in Moloka'i. I want to know the answer to that.

Mr. Matsuura: I do not have the answer to that.

Mr. Bynum: We will follow up. On TAT, HTA also lobbied—they did pretty well though. Can you summarize how HTA made out in this? They did not get close to ten million dollars (\$10,000,000) additional?

Mr. Pacopac: Yes, theirs were raised?

Mr. Bynum: A million for a museum at the Convention Center?

Mr. Pacopac: Yes, they did. Who else did they give money to?

Chair Furfaro: They got eleven million dollars (\$11,000,000) altogether.

Mr. Matsuura: Yes. The tourism special fund got an eleven million dollar (\$11,000,000) increase. They got another million dollars, I think, for the operation of the Hawaiian Center and Museum of Hawaiian Music and Dance and the Hawai'i Convention Center. I think those were the two (2) basic.

Mr. Bynum: In essence, Kaua'i County funded that.
Thank you.

Chair Furfaro: Any more questions?

Ms. Yukimura: So they got eleven million dollars (\$11,000,000) but on top of how much that they normally get?

Mr. Matsuura: They previously had seventy-two million dollars (\$72,000,000), I think so now they have eighty-three million dollars (\$83,000,000).

Ms. Yukimura: HTA, the Hawai'i Tourism Authority had, up to this legislative Session, seventy-three million dollars (\$73,000,000) a year in TAT moneys to do promotions and marketing?

Mr. Matsuura: Whatever their tourism special fund is used for, yes.

Ms. Yukimura: Now the Legislature is giving them an additional eleven million dollars (\$11,000,000) and capped the Counties' ability to fund tourist related services. Thank you.

Chair Furfaro: Indefinitely.

Ms. Yukimura: Permanent can be made impermanent next year. I think the point about unity is really important on the TAT, in terms of all the Mayors, Councils, and all the Counties together.

Mr. Matsuura: I think one (1) point you brought up how other parties with the TAT revenue picture enters, like you say tourism special funds, the Counties; there are various different groups that get funded out of the TAT. Again, it is one (1) of those issues where everybody fought for their own thing. That splits the pie up so many more different ways. Again, there may be an opportunity to work some of these things out, even amongst those who receive it. There are a lot of different ways to work this out.

Ms. Yukimura: The Legislators will use this unity as an excuse. The thing is that if we want to succeed and get effective results in the Legislature, we have to be unified I think. Thank you.

Chair Furfaro: We will send over a few questions and we will post or revisit here in Mr. Hooser's committee. One (1) more note on the Housing piece. I want to make sure that our Housing Bill prevents any of these tax credits to go outside of the tax key district. That is our position. You cannot get a Housing credit for Po'ipū and build it in Puea, Wai'anae Valley. Just so we know that is in our Housing Code, that we are willing to stay within the tax key district. On that note, I want to say thank you very much for coming. We will see if we have some public testimony at this time. Thank you very much.

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Yes.

Mr. Rapozo: This is not for them but as they are leaving, you are going to repost the item, but I sat here, it is about an hour. We probably had fifteen (15) minutes of responses and forty-five (45) minutes of commentary from Councilmembers. These people do not vote at the Legislature. They do not vote. The proper people to be here is Delegation. That is who should be here. It is great that the lobbyists are here, but they cannot speak to how the Legislature votes the way they vote. If we are going to have a true Legislative update, and if you have questions about why this and why that, the Legislators should be; our Senator and three (3) Representatives should be sitting right there so they can answer to the people and say, "I did not support it because..." or "I did support it because..." I think these lobbyists took a lot of fire over the last couple of meetings but at the end of the day, they do not vote. I would just ask, Mr. Chair, if we are going to do a Legislative update...

Chair Furfaro: We do each year and I will be in touch with Senator Kouchi to ask the team to be here.

Mr. Rapozo: Thank you, because those are the ones that need to be here to explain to us what happened at the Capitol.

Chair Furfaro: They typically have appeared before us and I have been coordinating that. Mr. Hooser.

Mr. Hooser: During the closing remarks, I was going to say something but I might as well say it now. I agree and I am going to be scheduling something in the committee later after we finish the Budget and after we get some of these things off our plate in inviting the Legislators to come, and proposing a plan, if you would, for the Council to increase communications, increase effectiveness, and working with the Administration. Prior to that invitation for the Representatives and Senate Kouchi, I will ask the Councilmembers to take time ahead of time and to meet, if possible, individually with the members if they can to make better use of the time when they finally do get here because again, it will be several hours, but it will be good to meet in advance. I will be scheduling something in the coming months.

Chair Furfaro: Again, that would be in your committee. It is not the Council as the whole. You heard my four (4) points. I have been on the Council twelve (12) years, and we have not gone anywhere on those four (4) points for twelve (12) years. It is important that you have that dialogue. Councilwoman Yukimura.

Ms. Yukimura: I just want to say that it is true that we should talk to our Legislators, but they are not the only ones making the decisions in the State. I do believe it is the job of the lobbyists to know why and the reasons why things either fail or succeed to help us develop our strategies.

Chair Furfaro: I am taking this that you are all making your public comments now because I have not given the public a time to give testimony. You are checked off the list, Mr. Hooser. You are checked off the list, Ms. Yukimura. Mr. Bynum.

Mr. Bynum: I think I want to thank James and Scott for the work that they did. I do not think they are shy about taking tough questions. These guys are veterans. I have learned a lot, particularly from James over the

years about the thinking of the Legislature, so I think those questions are fair for them. These guys know that place much better than I do, so seeking their input and their ideas is helpful. I think they know that there is no ire directed at them. My frustration is with the State Legislature and their continued efforts to undermine what our traditional County responsibilities and even undermine by the State Constitution are our responsibilities. I think James is nodding and understands this is not anything personal. You guys are in that forum and you are used to this kind of intense dialogue. Thank you.

Chair Furfaro: Okay. I am going keep my comments to the end when we call back to order. Is there anyone in the public who wants to give testimony? Please come up, Mr. Mickens.

GLENN MICKENS: For the record, Glenn Mickens. I just want to echo what Ross said. I think the State has to do a lot more of their share of taking care of our athletics facilities. We put out the money and they take the credit for it. Vidinha Stadium is maintained by us. The State, as Ross pointed out, on O'ahu, they do it. Whether the facility at Kapa'a High School is not well manicured. They said, "We have to wait two (2) or three (3) months for the State to come out and mow it." They get their own people to do it. I think that is completely wrong. Our athletic facilities badly need help. The one at Hanapēpē is taking care of by those people down there. They do a heck of a job. Again, that is not the State; that is us. I just wanted to say that I do agree with Ross completely. The State has to do more for helping us on these things. I appreciate your lobbyists and what they are doing, but I agree one hundred percent (100%) with Mel. I think our Representatives should be here, being asked the hard questions that we are asking these two (2) guys. They are lobbying for us, but again, I think our Representatives are the ones that should be here. Thank you, Jay.

Chair Furfaro: Glenn, you know that they usually come shortly after the Legislature.

Mr. Mickens: Yes.

Chair Furfaro: Do not believe that they will not be here. They will be here.

Mr. Mickens: Good. Thank you.

Chair Furfaro: Anyone else? Joe?

JOE ROSA: Good morning, for the record, Joe Rosa. I am here and I am from the old way back dealing with the State and the County. I agree one hundred percent (100%) with what Mel had to say and what Ross Kagawa had to say. You need the people who represent you at this kind of meeting so they can give you the answers direct. Prior when I was working with the Department of Transportation (DOT); the State, the Legislators, and the County Council used to together in the district engineer's office and go over what they were going to do for the County and for the State when it came to highways and roads. Today, you do not see that unity. They are separate. The County goes one (1) way and the State goes one (1) way. When it used to come to the budgeting, this whole County body used to go down and lobby when they had to come up to the final decision of the Budget in Honolulu. They would get together with the Legislators there and push for whatever project that we needed here on Kaua'i. Those are the kind of things that we are

paying these liaison companies big bucks and yet, sometimes I do not think we get enough information from them because Mr. Bynum said so. They lack the information. They should get somebody from the Mayor's Office because he has a lot of manpower in that office and they should go down there and do the lobbying for the County of Kaua'i. You have Gary Heu and the Public Information Officer, Beth Tokioka. What are they doing? They are high paid people who should be doing a lot more for the County for what they are getting paid for. Those are the kind of things that the local people, as taxpayers, are funding them but yet, they are not coming across. It leaves you people in the dark here as far as what is going on in the Legislature. In the olden days when we used (inaudible) to have The Garden Island, he used (inaudible) and we used to learn a lot from his columns for information. That is what is lacking with the County. They should have their own liaison over there and they report back and forth, and if you have anything for them, they can present it in the Legislature. Those are the kind of things that paying big bucks to these liaison companies like that to represent the County. To me, it is a waste of our taxpayers' money here on Kaua'i. You have got people and you send them there and like I say, when it comes the day for the final Legislation for the Budget, you go down enforce and you get together with our Legislators and our Representatives and our Senator and you push along with them and testify when they have to say something. That is all I have to say.

Chair Furfaro:

Thank you, Joe.

Mr. Rosa:

Thank you.

Chair Furfaro: Anyone else? If not, I will call the group back together. Mr. Kagawa, you have not had your time for summary. You have the floor.

The meeting was called back to order, and proceeded as follows:

Mr. Kagawa: Thank you, Mr. Chair. Just to point out that I guess the disconnect with the Legislature and maybe the County's priorities is that if you just take a look at the pools, you have got Kaua'i High School's pool located at the school, run by the principal or the State. I believe they do some swimming lessons to a private teacher, but the hours to the public is, I think, very erratic and very limited. You have Waimea High School's pool on the campus of Waimea High School, run by the County. The County pays everything. It is open a lot to the public. You have got Kapa'a High School's pool, not even close to the high school, run totally by the County and as of right now, it is a safety hazard where nobody can even go close to the restrooms for fear that it will fall on somebody. The State, in previous years, was in so bad shape financially that there was not so much pork barrel-type money going out. This year, we found ourselves a surplus at the State and they decided that I guess the Filipino Cultural Center was important; one million five hundred thousand dollars (\$1,500,000). The Mānā Drag Strip was important; one million five hundred thousand dollars (\$1,500,000). There is no communication going on between the County and them on those because maybe we did not foresee having that surplus. Basically, our Kapa'a High School swimmers use that pool. The community uses that Kapa'a Pool. That should be a State priority. The State high school kids use that pool. Who is to say that the Filipino Cultural Center is more important than the Kapa'a High School pool? Maybe we could have took two hundred thousand dollars (\$200,000) from there and give them one million three hundred thousand dollars (\$1,300,000). There has to be a little

more communication and responsibility by the State in doing things that are their responsibility. Thank you.

Chair Furfaro: Are there any other members on this side of the table that would like to say anything before I summarize it and we move to receive? I want to tell you that watching the Legislature is one of those things that is all year, and you have got to look at some of these things that are happening in the sense of variances and variations that come up. For example, in the eleven million dollars (\$11,000,000) that HTA received—I did not hear anybody mention fact and I know Vice Chair Nakamura is aware of this but three million dollars (\$3,000,000) of that eleven million dollars (\$11,000,000) went to DLNR on top of that. The fact of the matter is, is that a consequence of the PLDC failing? PLDC was supposed to generate this money. We need to know all of those moving parts and that those are unknown variables at this time. We have situations that deal with the fact that some of these things—I guess the baseball tournament...because I used to be a catcher. Glenn can follow this and Ross can follow this. It is like a squeeze play. I would always call for something high and inside because I want to get the guy out at third base. That is how you do it. You put yourself in a position that you can throw the pitch back. That is how you counter a squeeze play. Is the squeeze play that State is doing with Maui to say, "Hey, you pay it all or you put your money back in our pot." That is a squeeze play. The fact of the matter is that I sense it is that way because when I wrote to them and said, "Can I isolate the money with legal department setting up a trust for our own liabilities?" I quickly got the answer that they could not guaranty that and in fact, they frowned on it. Another squeeze play. We just have to be ware of those kinds of things. Are they right? Absolutely not. The fact of the matter, that is the game that we have to keep track on. Mr. Mickens, as an old pitch you are, do you understand what I am talking about? Tell the catcher throw it high and inside, and that is what we have to do next year around. We have to send the message that is almost like a pitch, high and inside. I want to thank the Water Department Manager for being here. I do not think there was anything that came up and the group representing Water as well. Thank you for being here.

The motion to receive C 2013-177 for the record was then put, and unanimously carried.

Chair Furfaro: We are going to take a caption break because for the next item, I want to go right through to lunchtime. We are on a ten (10) minute caption break.

There being no objections, the meeting was recessed at 10:38 a.m.

The meeting was reconvened at 10:49 a.m., and proceeded as follows:

Chair Furfaro: *Aloha* and good morning again. I want to remind everyone that we have a very full agenda today, and starting at 3:00 p.m., we have a whole series of Executive Sessions as well. I think if we go to page 3, we can read the next item, Mr. Clerk.

There being no objections, C 2013-182 was taken out of the order.

C 2013-182 Communication (04/23/2013) from Council Chair Furfaro, requesting the presence of the Director of Planning and the Prosecuting Attorney, to provide the Council with a briefing regarding the coordination of efforts between the

Department of Planning and the Office of the Prosecuting Attorney to enforce the Transient Vacation Rental (TVR) ordinances and their plans for dealing with the various enforcement issues raised by the public and Councilmembers.

Chair Furfaro: Thank you. Gentlemen, first let me tell you that as you can see, this communication was put on the agenda from me. As we get into the final stages of our Budget format, I would like to have an understanding on the enforcement strategy that we are looking at here going forward, both the short term and the long term. The reason it is important enough for a separate communication is that there may be some requiring of funding for your mission, and tomorrow we go into deliberation on the Operating Budget. I want to make sure the members know how the two (2) of you will work many tandem to help us resolve some of these issues. I believe the strategy should come from the Planning Department and it should include methods to enforce, which includes the Prosecutor's Office. On that note, thank you for being here. We tried to accommodate your schedules because I know you are committed in the afternoon to other places. Mr. Dahilig, I give you the floor first and if you could both introduce yourselves at the beginning, I would appreciate that.

There being no objections, the rules were suspended.

MICHAEL A. DAHILIG, Director of Planning: For the record,
Chair, Mike Dahilig, Director of Planning.

JUSTIN F. KOLLAR, Prosecuting Attorney: Good morning Mr. Chair,
Vice Chair Nakamura, and members of the Council. Justin Kollar, Prosecuting Attorney.

Mr. Dahilig: This is a personal thank you, Mr. Chair, for accommodating my flight schedule this afternoon. I asked Scott to pass around a bullet point sheet of things that we had to take a look at over the past few weeks. I think the increased discussion has been helpful, at least for my Office, to help frame the issues, and really take a look at, "Okay, where are we with respect to this program?" At the end of the day, when Justin and I had discussions about trying to look at the coordination within our respective departments and how we communicate and interface with each other, I think it brought up a whole, larger host of issues that even between this relationship between the Office of the Prosecutor and my Officer, that there are other relationships that even go beyond just this one (1) linear relationship, particularly with the respect to things like flood code enforcement, the building code enforcement, and these types of things. These are relationships that at this point in time, I do not even have a full grasp on. I think what our goal in the long term is to be able to go through an assessment, Countywide of what ties into the TVR program, and then make recommendations from a more permanent resource allocation standpoint as to what makes the most sense. Certainly, from a knee jerk reaction, I would be in the position to say, "We could throw money at this or throw money at that," but given the austere nature of the Budget at this point in time, I could not be in a position to guarantee not understanding the full breadth of the issue, whether a certain type of resource allocation would make sense and would work. Essentially, in the interim, while we are trying to understand the processes, I think there are fundamentals like I discussed at the last Budget meeting that our Department can make forward progress on. With respect to actual coordination issues, Justin and I have talked and again, he has gladly agreed to help assist our Staff in capacity building. What is clear, as I mentioned in the Budget discussion on

my Budget, that we have capacity issues with respect to our Staff being able to produce the types of reports or do the types of investigations.

Chair Furfaro: I want you to stop for just a second and want to make sure you understand why I wanted this discussion today and why I put it on the agenda. We have to have this problem resolved and we needed some dedicated commitment towards this item.

Mr. Dahilig: Yes, Sir.

Chair Furfaro: I would like to hear your short term plan and in fact, if we need seventy-five thousand dollars (\$75,000), eighty-five thousand dollars (\$85,000), ninety thousand dollars (\$90,000), or one hundred thousand dollars (\$100,000) earmarked in a contract to help your Office get it done in the right way; *kīnā'ole*, without flaw, then we are going to start having that discussion over the next four (4) days.

Mr. Dahilig: Understood.

Chair Furfaro: I am prepared to try and find that money to have it done. Justin, I want to say for the money, I see the money being set aside in Planning, and I will tell you why. If we enforce fines, and it comes out of our Office, the State gets the money. This is taking County assets, County energy, and so forth. I want to make sure that what the door closes here, we can look at recovering some of these costs through the fines that stay in the County coffers. We are shipping a lot of fines and penalty charges off to the State and yet, the burden of managing this long term is going to be with us. I just want you to know, Mike, I am prepared to convince members that we need to do that, whether it is seventy-five thousand dollars (\$75,000) or one hundred thousand dollars (\$100,000), to give you many some contract services.

Mr. Dahilig: I appreciate that, Chair. Given the last Budget, and there was a smaller amount being tossed around that was being appropriated to try and assist on that level. I have to be candid that a lot of ways that we tried to use those funds led to some dead ends.

Chair Furfaro: Let us not go back and revisit that. You are here today because I want to hear your short term and long term plan as a team.

Mr. Dahilig: Okay.

Chair Furfaro: I want to make sure that from the very beginning that if we have to allocate some resources to do it without flaw, then I am prepared to stand behind it.

Mr. Dahilig: Okay. Essentially, our short term plan is, again, to focus on fundamentals. As I mentioned in previous Budget briefing, a lot of issues in the Department relate to our ability to have faith and have a database that has integrity. A lot of it has to do with training and a lot of it has to do with essentially making sure that we have even the renewal process calibrated to match what the system is. Those are things that, right now, we are trying to invest our time in. It is a very long slog. I think that right now, that is what we are trying to focus and efforts on, which are taking TVRs that are in the system that are hit up with violations, and enforce on them and bring them into compliance through the

civil process. That is what we are currently trying to set up. In terms of whether we are able to efficiently have that process work, I think, is incumbent on our ability to get the database first set up. Because of the Legislation in the middle bill, which was Bill 876, we have a bubble of TVR renewal applications that is coming up. It is our hope, and I responded in the communication to Councilmember Nakamura that we want to get the first block of fundamental work done before that renewal bubble comes. I think once we do it that way, we are able to gain the efficiencies that we need to be able to better track a lot of the other departmental outlying issues that are out there. As I mentioned earlier, part of a guess the difficulty in being able to pinpoint a specific problem that could be addressed by an appropriation, Chair, is that we have misunderstood relationships with the Department of Public Works, as well as the Fire Department, and the Department of Health. I do not know what kind of resources would be needed to essentially fold those departmental reviews into a renewal and enforcement process when we only have one (1) discussion point that is going on right now with the Prosecutor's Office. Certainly, it does show gaps. The gaps are there. It will require some type of resource down the line, but I think where we are right now at this point in time, I do not have a handle on being able to with affirmity, say that this is the monetary solution to this problem. Unfortunately, I cannot represent that truthfully on the floor.

Chair Furfaro: I did not give you an exact amount. I told you what I pledged to do, and I gave you a range. I need a plan; I agree.

Mr. Dahilig: That is a plan that I still think that we have to work out with a multi agency discussion beyond just the Prosecutor's Office and my Office.

Chair Furfaro: As I may say, with the Fire Department and the Building Department, and so forth, I need to make sure—and I will in my Budget message, make sure that they understand that they need to take some of their existing resources; the Fire Department has inspectors, the Building Department has inspectors. They need to understand that there is a priority there that is not being patched by additional funds for them. It is directing the scarce resources we have to help you fix the problem.

Mr. Dahilig: Understood.

Chair Furfaro: I will convey that to Building, Fire, and Public Works as well. There is an urgency here that needs to get started.

Mr. Dahilig: I agree, Chair.

Chair Furfaro: The Prosecutor's Office, do you want to make some opening statements to the request here that we have, to work in tandem with the Planning Department? I will give you the floor.

Mr. Kollar: Sure. Thank you, Mr. Chair. I do want to thank you again for the opportunity to come here and participate in this dialogue today. Like you said, this is something that we do move towards resolution on and we need to move urgently towards resolution on it, so that is part of why I wanted to put this issue squarely up here in the public eye a little bit. I am personally not anti-TPR. I do not wake up in the morning and say, "I hate TPRs and I want them all gone."

Chair Furfaro: I want to make sure that you know that what you just said upsets me. We have rules. We have ordinances that I have worked on twelve (12) years on the Council.

Mr. Kollar: That is where I am going, Chair.

Chair Furfaro: I was with Councilmember Yukimura when we launched, and she chaired this stakeholders meeting to come to the bills that we have. That took us almost eight (8) years.

Mr. Kollar: I recognize that, yes.

Chair Furfaro: Now we have law. It is the law of the land. I am not actually asking you to choose. I am asking you to get us to a point that the law is obeyed.

Mr. Kollar: Absolutely. That is exactly why I wanted to put this issue up here because what I am concerned about is the rule of law and applying the law equally across the board. We have got it on the books. It is clear right now it is not being observed and it is clear right now that we need to step up what we are doing on a County level to see that equality is ensured in the application of the all the laws that are in the books.

Chair Furfaro: Thank you for that statement.

Mr. Kollar: It is clear that there are egregious cases out there. Mr. Dahilig and I had a number of conversations since December as to how we can coordinate, share ideas and resources, and our different synergies. I understand the walls that he is encountering on his side in terms of institutional limitations on resources and things like that. From my perspective, I cannot come here and tell the Administration how to do its job or tell the Planning Department how to do its job, but what I can do is offer my support and offer the resources that are available to my agency. Part one (1) of that was asking that we maintain the resources that we have had in prior years in terms of personnel and manpower, so that we can devote a person to working on these once we start receiving notices of violation and things of that nature. It is a multi pronged enforcement effort and like you said, right now, when we go out and get fines, that stuff goes into the General Fund. Those is one (1) the big misconceptions about law enforcement are that cops go out and write tickets just to pad the County Budget. All of that money goes to Honolulu. There are different prongs here to this enforcement effort, and if one (1) of those prongs is not working right, then the whole system is going to bog down. The preference is that again, most of these violations will be brought into compliance through the Planning process and through a Civil process. If necessary, it can go to Civil enforcement but then again, you run into situations where Planning needs hearings officers and you have contested case hearings and those kind of chew up resources, too. You are going to get those egregious cases where those people will not comply and they fail to comply. They have been numerous chances to comply and that is when they come over to our Office. If we are not there with that hammer, then they are not going to eat the carrot. That is an awkward metaphor, but I think it gets the message across. We need coordination. We need multiple agencies involved. Like you said, there are agencies with inspectors spread throughout the County. My investigators are limited in terms what they investigate and frankly, in terms of priorities of what they investigate. We do need to look at the Countywide basis and say, "What are the resources that we can bring to bear

from each agency and reallocate within the department, and reallocate across departments and do what we need to do?" Like Mike said, one (1) thing we can help with is capacity building, which means providing training and it means providing consulting advice on how to build cases, and what we need to build cases, and what kind of evidence we would like to see gathered. Also, assembling files and subpoenaing documents. Basically, the same type of work that we do with the Kaua'i Police Department right now, DLNR, or any other enforcement agency that we work with. They come to us and they say, "We have a problem and we need assistance. Can you help us generate a subpoena? Can you help us strategize about how to best go about gathering this information?" We are right there with that. We are happy to help. We have got an open door, not just to Planning, but to any agency throughout the County. We meet with anyone that asks for a meeting basically so we are happy to devote whatever resources that we can. The Planning Director and I have had a number of conversations. The Administration and I have had conversations. Basically, we are ready to move if we can get everybody to kind of go in the same direction here.

Chair Furfaro:

Mike, what is the next step?

Mr. Dahilig: Essentially, the next step here is from a long term vision standpoint is that we do need to take a thirty thousand (30,000) foot view of the issue Countywide. At that point in time, when we get a handle on where is the best place to deploy potentially, either additional resources, or identify gaps in either the stream lining of the Code or the enforcement of the Code that we report back to you on where those gaps are. Right now, we have the gaps only from a linear sense between us and the Prosecutor's Office. A lot of the concerns that were raised by the Council during our Budget discussion pertained to the enforcement of the flood issue, and especially the health and safety matters with respect to flood concerns. That is something that I think we need to drill down more. We will get that assessment done and I think once we have gone through this, essentially, it is almost like creating a business plan where once we have an understanding of the issue and how to address it, we would come back and say, "Here is where we efficiently think we can deploy gaps—plug the gaps in enforcement and if there are other ways that we can do it by making tweaks to the Code to try to spread out workflow and those things." Those are stuff that we can propose as well.

Chair Furfaro: Do you follow what I am sharing with you right now? I am not sure I have all the faith that I need, that you are going to get the pieces from the State Health Department and so forth, but I think if we have items that will not take as long, and they are "low hanging hadn mango" in the tree, you can go after them.

Mr. Dahilig:

Right.

Chair Furfaro: I think once you find yourself prosecuting some of the low hanging fruit, the message will get out that the County of Kaua'i is serious about obeying the Ordinance and the Law. You must be permitted. You must be licensed and you must comply with your renewals. Thanks for giving me the big picture, but I think some of those things that we are waiting for will take some time. I also think that for some of the things we do not need to wait for, we can be sending the message that we are very serious about this. If you are not in compliance, you will be prosecuted.

Mr. Dahilig: I whole heartedly agree. Based on how we laid out kind of the short term strategy on this is to use the systems that we are trying to build right now to more efficiently do the enforcement and pull people that are not complying with the law that are in our system to come into compliance. The proviso in Ordinance 904 helps us with respect to withholding certificates. How that works is still a process that we are trying to stand up in house by having the right systems and the right training to ensure that we can have a renewal process that is run with integrity. That has been one (1) of the flaws that we have seen. That is what we are focusing on right now, which is to ensure that we are not sending out renewal notices to those who do not deserve a renewal notice, that those that have violations; we withhold it and we actually follow up with it in a certain process. Those are the types of, I guess, things that we are trying to build on an enforcement standpoint to send the message that we have a system that is accurate, with integrity, which will hold people accountable if they are not following with the process. That is what our goal is in the short term.

Chair Furfaro: I have a conference call at 11:15 a.m., which I am going to step out. I will turn the meeting over to the Vice Chair and I know Mr. Rapozo has raised his hand. I want to make sure that you are very, very clear what I am saying. I am going to give you an old Wai'anae football process here; "No guts, no glory." Enough is enough.

(Chair Furfaro is noted as left the meeting at 11:13 a.m.)

Ms. Nakamura: Councilmember Rapozo?

Mr. Rapozo: Thank you both for being here. Mike, a year ago we had the same discussion. A year ago, you told me, "Councilmember Rapozo, we have a whole bunch of renewals coming up, and this is where are going to get them." That was not done. You sit here today again saying, "We are going to catch them at renewal time." Where is our assurance? Mr. Furfaro was very professional, but I am going to say right of the bat that I have lost absolutely all confidence in your Department, as far as enforcing. All confidence. Mr. Kollar says this is why he wanted to bring this issue to the public eye. This has been in the public eye for over a decade. It is nothing new. This is not something all of a sudden—no, this is old. The two (2) things that I heard from the both of you are that you have limited resources and training. Mike, is it not true that the Council provided resources last year?

Mr. Dahilig: Yes.

Mr. Rapozo: Is it not true that the former Prosecuting Attorney's Office and the Kaua'i Police Department provided your Office training?

Mr. Dahilig: I was not in...

Mr. Rapozo: You know the answer because you answered it at a prior meeting.

Mr. Dahilig: I am aware that training did occur.

Mr. Rapozo: Exactly. They were trained by the Police Department and the Prosecuting Attorney's Office, so you had resources and you had the training but for whatever reason it was not done. You come here today and the

Chair wants to give you more money but I am not supporting a penny. He believes tossing money may help. I disagree. What is the assurance that we have on this body that something is going to actually get done?

Mr. Dahilig: The questions you raise are fair questions. What I said on the floor and from a standpoint of optimism last year was that there was ways that we could tweak the system to try to get the desired result. Unfortunately, what became uncovered as the layers of the onion were unpeeled is that there were more systematic issues I was not aware of, that right now, I am trying to address. Certainly, the foundation that I thought we were on, with respect to having the systems and having the training, was actually a foundation built on sand. I think what we are trying to do at this point is be very candid about the limitations from a Human Resources standpoint, as well as from a systems standpoint about why we are not getting what we want. I am with you. I wish I could sit here and report more positive results with the respect to where the enforcement program has been going. In the meantime, looking at the fundamentals, the fundamentals are not there and that is what we have had to backtrack and try to shore up again, in essence, to get to the goal that I agree with you on where we want to be. I want to be able to have enforcement with integrity and efficiency. We are not there.

Mr. Rapozo: Has your Office started sending the notices to the Prosecuting Attorney's Office?

Mr. Dahilig: That is part of our plan.

Mr. Rapozo: No, have you started since the last time I asked you that question?

Mr. Dahilig: We have not started yet.

Mr. Rapozo: You are not sending them?

Mr. Dahilig: We will be.

Mr. Rapozo: When is that going to start?

Mr. Dahilig: As soon as we have had this discussion. Justin and I have been talking...

Mr. Rapozo: Justin wants another Prosecutor. He wants another Deputy.

Mr. Dahilig: Right.

Mr. Rapozo: If the police officers were out there giving warning citations and basically saying, "Hey, stop speeding. Do not beat up your wife. Do not beat up your dog," but no citation or no arrest; Justin's Deputy has no job, right? You guys are both lawyers. Right? If you do not get a speeding ticket from KPD, how are you going to enforce that ticket?

Mr. Kollar: I think from my perspective and you know from your experiences as an investigator in that Office, there are certain things that you can do even if other agencies are not necessarily providing you everything...

Mr. Rapozo: How would you enforce a speeding ticket without a ticket, Justin?

Mr. Kollar: A speeding ticket, you cannot. For a zoning case, you can subpoena files. You can do certain things.

Mr. Rapozo: Justin, unless you know. How would you know? If you are not even getting a notice from the Prosecuting Attorney's Office, how would you know that a violation is occurring in 'Anini or in Kalihiwai?

Mr. Kollar: There are other ways of getting information from people about whether violations are happening.

Mr. Rapozo: Tell me what they are.

Mr. Kollar: They can come in as citizen complaints. They can come in from other agencies. They can come in from plenty of avenues.

Mr. Rapozo: As you can tell, I am frustrated.

Mr. Dahilig: I am too.

Mr. Rapozo: This is not a new issue. Every year, we get the excuses. That is what they are. We get excuses. I just read through this whole thing and it is like, "My gosh." Do I think it is going to be happen? No, I do not. We are being asked to fund more positions or whatever, but it is difficult. I am hearing the same response every year. "Is there urgency?" Of course there is urgency. Every single day that we delay, we get more violations. I am not sure what more this Council can do. We have done it. Now, the whole island and the whole State knows about our problems in the Planning Department as it relates to TVR enforcement. It is on the internet. Investigations are being done on the internet. I just have one (1) more question. I am going ask you this question and I want you to answer me. Councilmember Hooser and I are going to be introducing a Resolution for a 3.17 Council Investigation on your Department. That is going to happen. It is drafted and it is final. The Chair just has to put it on agenda, and I am hoping that it happens in the next week or two (2). Can I get your support to have an independent review? You are talking about the gaps, the *pukas*, and this and that. Let the Council help you one (1) final time. I just need to know if you would support that?

Mr. Dahilig: I would not support something that will be characterized as an investigation.

Mr. Rapozo: It is going to be an investigation because that is all we can do.

Mr. Dahilig: In my opinion as you have asked for, I think that there are things from a process standpoint that need to be understood and evaluated. You and I can agree on that.

Mr. Rapozo: I can agree, and I can agree that these process issues have been around long before you took over, but you have been there long enough in my opinion, to have corrected some of, and we have seen absolutely

nothing. I just was hoping that we could get your support that an independent party could come in, take a look at the process, and find out what the heck is going wrong. I got your answer. You are not in support. I appreciate that. That is all the questions I have.

Mr. Bynum: When this session started, my impression is that you were going to present this material. I just looked through this. Two (2) things; did you intend to present this? I would like to hear the presentation and then make sure that members of the public have access to this document as well.

Mr. Kollar: These are not my materials.

Mr. Bynum: I am sorry?

Mr. Kollar: These are Mr. Dahilig's materials.

Mr. Bynum: This is Mr. Dahilig's materials.

Mr. Kollar: Yes, this is not my presentation.

Mr. Bynum: Did you intend to present this?

Mr. Dahilig: I intended to have it be discussion points, not necessarily a point by point presentation about recitation of exactly we are going to do.

Mr. Bynum: Okay. I will ask questions a few questions based on my read of this if you are not going to go through it. First of the all, what I see in this just from a quick read, is a focus on the July 31st renewals, right?

Mr. Dahilig: Yes.

Mr. Bynum: Those are TVRs that were approved through the regulatory process that was established by the last TVR Bill?

Mr. Dahilig: That is correct.

Mr. Bynum: Okay. Those are the ones that it appears that documents that the Legislation required were not acquired by the Planning Department, prior to allowing the initial use permit, right? That is one (1) of the concerns.

Mr. Dahilig: If I understand correctly, you are talking from a back end, standpoint that there were issues concerning whether documentation, as acquired by the Legislation, has been actually verified and a certificate has been issued?

Mr. Bynum: That is one (1) of the concerns that is identified. In essence, we are going to look at these again at renewal because it may not have done properly to being with.

Mr. Dahilig: That is correct.

Mr. Bynum: I understand given the timeframe and how this is going—if I am reading this correctly, you are saying, “Look, the data we were relying on is no good. We need to fix that data and make sure that we have an accurate set of information.”

Mr. Dahilig: That is correct.

Mr. Bynum: Our priority right now is going to be these renewals, because it is an opportunity to see if these properties are in compliance.

Mr. Dahilig: That is correct.

Mr. Bynum: Likely, you are going to determine that they are not, or at least a number of them.

Mr. Dahilig: Yes.

Mr. Bynum: You are saying we are going to withhold those renewals and put out Cease and Desist orders, in essence saying, “You do not have a renewal so you cannot continue to operate.”

Mr. Dahilig: Right.

Mr. Bynum: That is going to create a lot of contentious, legal issues.

Mr. Dahilig: Correct.

Mr. Bynum: The Planning Department will have to deal with that. I also see if people do not Cease and Desist, then you intend to make referrals to the Prosecutor’s Office?

Mr. Dahilig: That is our intent, essentially.

Mr. Bynum: You intend to use, both the Civil Fines that you have, and when people are not responding to Cease and Desist to make formal referrals to the Prosecuting Attorney?

Mr. Dahilig: That is essentially the framework that we are looking at.

Mr. Bynum: Realizing that other important work is going to be delayed?

Mr. Dahilig: That is essentially the message, Councilmember.

Mr. Bynum: As Councilmember Rapozo pointed out, the Council has options about how to respond to this situation, right?

Mr. Dahilig: Yes.

Mr. Bynum: One (1) is to listen to both of you and support your efforts. Another, which I heard for the first time today, is to invoke the 3.17

powers of the Council to investigate. I think that is a pretty dramatic move that I may be willing to support, depending on the outcome of these dialogues because we have a mess. On the other hand, that has never been invoked is my understanding in the Council's history and I would want to know more details how we would accomplish those goals since we have not done it before. I am reluctant to set a precedent that any time something is going wrong in County government, the County Council is going to invoke these extraordinary provisions. On the other hand, it may allow you some tools that you do not have, like witnesses under oath. This is a very serious situation but have I correctly kind of identified what you are outlining in these three (3) pages? At least the gist of it?

Mr. Dahilig: Yes, Councilmember. I would just like to add that certainly in the bullet points, I am saying affirmatively that we need somebody to take a look at it this from the broader standpoint. As that contrasts with an investigation which implies that there was malfeasance possibly involved—that was not any assessment coming into the Department. As I said at the last Budget hearing, these issues that we are encountering at least from the tip of the iceberg, to use that analogy, are things I can identify as systematic issues. At least understanding and combing the process and trying to take the rubik's cube and try to look at it in different ways. I do not necessarily see any threads of malfeasance that would imply that an investigation is necessary, but I am more than willing to say on the floor that we need someone externally to come in and assist us in looking at how to possibly process and reengineer how we do this. That I think would be valuable for us because getting a handle on what the issues are and what the parameters of the issues are, I would say in response to Mr. Rapozo's earlier question, was probably a miscalculation on my part last Budget cycle. I thought from just a reaction standpoint, I could request thirty thousand dollars (\$30,000) and try to have that thrown at the problem. That has not worked. Certainly, as I began to discover more and more of these issues, I think it is a structural and systematic, and having that outside guidance would be helpful.

Mr. Hooser: Thank you, Chair. Thank you, gentlemen, for coming. We had quite a bit of discussion on this last time and I want to thank Councilmember Bynum for actually explaining what you were trying to say better. For me, I understand your position moving forward better after he summarized it. I do not think the investigation to determine how things got so messed up will preclude you from moving forward. I think that they are separate issues. I think any one impartial, outside observer that reads the reports that have been generated in the community cannot help but come to the conclusion there were some serious mistakes made. Director, we have given you since the short time I have been here, and Councilmember Rapozo talked about a year ago, but even the short term, we have offered plenty of opportunities to reassure us that the Planning Department has gotten this under control. Frankly, all we heard is that there is lots of stuff in boxes and we have not gotten to at all. That does not reassure me. The descriptions of some of these situations are just so egregious in terms of the files missing, false statements, or the allegations. I do not know if they are true but barring the Planning Department, but giving us anything else to fill in the gaps or reassure us it that is not true, this thirty thousand (30,000) foot strategy is not enough. It is not enough for me personally. Maybe that moves forward; that is fine, but we need something beyond that. I do not think it is about more resources. This does not just apply to your Office, but to many in the County Administration. I do not think another position; another eighty thousand dollars (\$80,000) or ninety thousand dollars (\$90,000) would make a difference. I would think that both the Prosecutor's Office and your Office could reallocate some existing resources for a short period of

time and prove that something is going to happen, and then come back to say, "Okay, we proved it. Now, if you give us more resources, we could actually do the job right." It may not be malfeasance; it may be misfeasance or nonfeasance, but there are definitely some issues that need to be resolved. Are you asking for more resources or not asking for more resources? I heard the Chair suggest offering you more, but are you asking for more?

Mr. Dahilig: At this point in time, I am not. I can anticipate that at some juncture, there will be that I ask. I do not find it, I guess responsible as a Director, to recommend to this body that an allocation of resources in a place that I do not wholly understand from an external agency interface standpoint would make the most sense. Unfortunately, it is something that we need to do more homework on. I think given the issues that have been brought up in the media recently and online about these flaws in the system are pointed directly at things that we are trying to do right now, which are trying to ensure accuracy of our systems. Any time that I am asked the statistic how many TVRs are in the 5th Tax Map Key (TMK) district on this island, I was finding that I was getting different numbers at different times. That is something that as a Director, I cannot continue to have persisted. I think that is just the tip of the iceberg when you are getting into things like having submitting the renewal application, has it been reviewed, and what day it came in. To be clear at this juncture, I can say that I would anticipate at some point that holes do need to be plugged up. As part of the plan, we are going to continue to make those nonmonetary tweaks and get the system at least to a point where things can be running.

Mr. Hooser: Two (2) things. One (1) is that the County is on public notice now, right? It is in the public and the internet is the media. It is not either or. It is the media. If God forbid something bad happened like tsunami or any other number of things that could happen, and we are publicly informed that there are structures with people living in it that are illegal, then the exposure to the County is huge. Why can the Planning Department not look through this list of allegations, pick the most egregious, go to the owners and say, "We have looked at our files and it appears that you filed a false affidavit. It appears that you were not using this property a certain time; therefore, unless you prove it right, I am going to revoke your permit." Why can you not just do that and take one (1) of the most egregious examples and focus on it?

Mr. Dahilig: That is a good suggestion about taking one (1). I think what became apparent to me, and this is in particular outside a specific case; this was the dock case.

Mr. Hooser: Pardon me.

Mr. Dahilig: The dock case where someone jumped off the dock and was injured—actually died. That is a health and safety concern. I agree. We sent our inspectors to go out and do the appropriate inspections to try to address that one (1) TVR. As we started to look at the work product that was coming in concerning that investigation, it became apparent to me that one (1), the work product was problematic and that what...

Mr. Hooser: Excuse me, the work product was problematic; what does that mean?

Mr. Dahilig: In terms of what information was being called in the inspection.

Mr. Hooser: So the work product of the Planning Department was problematic?

Mr. Dahilig: Exactly. In terms of what the inspectors were pulling in from the field, it became apparent to me that they still required more training. Then once that information was also cross referenced with our files, you realize that there were gaps in the files which led to this, "Okay, let us hold on everything and let us..." To do that simple thing at looking at our files and ensuring that the files reflect what exactly happened, we needed to essentially ensure that those files were accurate and they were not. When I talk about fundamentals, Councilmember, to even do that simple thing, is something that we have to ensure is done because if the files are not accurate then we cannot do accurate enforcement. That is the process that we have been undergoing at this point. We want to get to where you are suggesting, which is to being able to do the cross referencing with faith.

Mr. Hooser: Taking that one (1) example—because I was saying can we just take one (1), follow it through, and do it right. Is the Department following through on that one? Is it being enforced as we speak?

Mr. Dahilig: We are going to be following through once we are able to ascertain that the files we are cross referencing are correct. Essentially, it was an all stop until we were able to ensure that there was accurate information in the file to then move forward and follow through.

Mr. Hooser: That person is still operating a Transient Vacation Rental at that property?

Mr. Dahilig: That, I am not sure. We did issue some type of a Cease and Desist Notice, but to actually follow through with the package of fining and Administrative hearings and these types of things, that is where the juncture is.

Mr. Hooser: In round numbers, when was that issue noticed?

Mr. Dahilig: I would have to get back to you.

Mr. Hooser: Thirty days (30) days? Six (6) months? Forty-five days (45) days? One (1) year? Just pick a number.

Mr. Dahilig: It is certainly within months

Mr. Hooser: Within months?

Mr. Dahilig: Yes, within months.

Mr. Hooser: Once the Cease and Desist order is issued, there is nobody that drives by, checks the internet, or follows through to see if they actually ceased and desisted?

Mr. Dahilig:
addressing; the follow up issue.

That is a procedural issue that you are

Mr. Hooser:

The answer is "no?" No one is following up?

Mr. Dahilig: That is how you systematically follow up with these things. To build a package of enforcement on one (1) particular TVR, from what I understand of how my guys operate, it takes them about essentially a week to create the package. That is up to a point that it is enforceable by, let us say, the Attorney's Office or by the Planning Commission.

Mr. Hooser: I do not mean to try to pin you down and wrestle you to the ground on this, but it is important that I, and I think all of us understand and the public too, of what exactly—quite frankly, I do not know if you are speaking planner talk, but it is hard to understand the nut, sometimes of what you are saying in terms what is actually happening. But I think I am getting it.

Mr. Dahilig:

Okay.

Mr. Hooser: The one (1) particular example, just so I can restate, with the dock; the inspectors did go out.

Mr. Dahilig:

Yes.

Mr. Hooser: means that they are insufficient.

But their reports were problematic, which

Mr. Dahilig:

Yes.

Mr. Hooser: A Cease and Desist order was issued, telling that property not to vacation rent that property...

Mr. Dahilig:

Yes.

Mr. Hooser: We do not know—there has been no follow up that you know of, in terms of whether they have actually stopped operating it or not?

Mr. Dahilig:
not think so.

As far as I am aware of, I do not know. I do

Mr. Hooser: Has there been any other instances like that on the list that we are talking about that you have followed up with?

Mr. Dahilig: There are things that are being followed up with, but they are essentially in a queue. They are in a queue for that second stage of enforcement.

Mr. Hooser: Thank you. In that particular example—I will bring the Prosecutor in and I will be done for now, Chair. Is that something that would be referred to the Prosecutor's Office or because the inspector's reports were problematic, so it is not clear enough to give to the Prosecutor?

Mr. Dahilig: There is a certain integrity in the packages that if we are going to be referring a criminal prosecution over to the Prosecutor's

Office, we have to ensure that the work that is in there is representative of what is happening. I think that is where Justin and I, from a discussion standpoint, hope to get to, and where the issue is concerning the retraining and the systems, come into play from a fundamental standpoint. That is where we want to get to.

Mr. Hooser:

Thank you.

Ms. Nakamura:
Councilmember Yukimura.

Councilmember Kagawa and then

Mr. Kagawa: Thank you, Mike and Justin. I guess this is my first question and it is not really a trick question, but how high is—I guess going after this TVR problem, illegal vacation rentals; how high is this on our priority list as far as for Planning? As far as the Prosecutor? I have lived here had all of my life, most of it on the Westside, and have not seen much of that damage on Westside, if any. On the Eastside, going to camp every Labor Day and summer, since I was fifteen (15), I have seen it change over the years. Now, if you drive any subdivision road and you see what is there, and you hear that it is Ag land, and Joan on her blog; she has fifteen (15) descriptions and pictures. It is a lot of evidence and a good starting point, I think. How high is it on our priority list to make things fair and catch those who are not being fair?

Mr. Kollar: I think that is a good question and thank you for asking that. I want to give this a high priority, which is why I am asking that I have a person whose fifty percent (50%) responsibilities are to work on zoning and TVRs and things like that. If the cases come in now and I do not have the person to work on them, the case is going to get worked, but it is going to go into somebody else's workflow basically. I just want to use that to kind of jump back just for a moment and actually thank Councilmember Rapozo for bringing something up earlier when he said, "This is not a new issue." I misspoke if I said that I was the one to bring this into the public eye. That was certainly not my intention. There are a lot of people sitting in front of me and behind me who have done a heck of a lot more than I have to bring this issue forward, but it is something that I wanted to highlight in just in my Budget presentation as an area where we want to expand our enforcement efforts which is why we were asking—not for new positions, but just to keep what we had in last year's Budget. That is where I was coming from and thank you for that question.

Mr. Dahilig: Just to dovetail on it, enforcement of TVRs and implementation of the TVR law is important. It is important. I do not want to have any misconception of the fact that we do place an importance on this. From a Human Resources and a structural standpoint, there are challenges with respect to how we are implementing the program. The results clearly are not meeting expectations. I think, in terms of my time being shifted to try to understand these processes, is reflective of how important this is to the community. The attention that was paid to it, prior to this point was probably not—we are not looking in the right areas. I was looking at stuff at the back end and not at the fundamentals. That is where essentially my focus is at this point, which is to reflect the importance of this and that we are trying to have a system with integrity.

Mr. Kagawa: Would you say that with the fifteen (15) that is in the Kaua'i Eclectic, would that be a good starting point for you? Obviously, with the pictures, and it has come up from the community that they can see obvious

violations. It is almost like you are handed all of this evidence. Would that be a good starting point?

Mr. Dahilig: It is our starting point. I think when we started to drill down and cross reference information that was on the internet, with respect to what we are seeing in the files, it became apparent to me this was a bigger issue than just sending out an inspector. Those were starting points for us to test our system and say, "What are we doing right here that is working? What is not working?" There were a number of things that became apparent to me as we looked at issues regarding maybe misrepresentations by landowners, affidavits, and these types of things, that we were not able to do a proper due diligence because of the state of our databases and files. Those are our starting points. I will be very candid on the floor. That is what we are using as a means to try to test our systems.

Mr. Kagawa: I can tell you this, at some point, we are at fifteen (15) now. If we do not do anything, in time, the community is going to get frustrated and they will not keep up, but if we can take advantage of what they are supplying us with and put some teeth into it, I think you see a lot of people that are breaking the law, actually fall in line.

Mr. Dahilig: Exactly correct.

Mr. Kagawa: I had this article just to point out that it is not a problem only on Kaua'i. I forwarded this to the Planning Chair Nakamura. I was on April 23rd where the Honolulu City and County had a big front page article in the news about Sunset Homes, and they are being fined one thousand dollars (\$1,000) a day, up to thirty-six thousand dollars (\$36,000), or so, and they said that "consumer watchdogs say they are seeing a rise of complaints about rental scams and illegal vacation rentals." It is the same thing happening there. Have you touched base with the Honolulu Planning Department and their attorneys to try and see if we can coordinate efforts and take what is working there here?

Mr. Dahilig: That is a good suggestion. Right now, we have been trying to figure out how to implement our civil fine legislation efficiently. It has yielded some results and so far we have collected four thousand five hundred dollars (\$4,500) in fines at this point. There are things they we are trying from a trial-and-error process to understand how to be more efficient and actually implement these things consistently, but that discussion with the Honolulu County, as you suggested, might be fruitful.

Mr. Kagawa: My last one (1), I guess for both of you—I was impressed with Councilmember Hooser's suggestion. Because we are in tight fiscal times and if this is a priority, maybe what we could do is use some of our resources that we have now, and at least do one (1). If you show us that we can do it and we can actually do one (1), then come forward with a request to add a body. If we do not even do one (1), how are we going to teach them to do their job if we do not know even what is needed for success? I think that is where his point touched on. If it is important to us, we can redelegate our manpower for this one (1) case. Let us do one (1). Let us know how we are going to do it, how we are going to do it successfully, and then we can get that additional funding if that is a good suggestion. I want to know your thoughts on that.

Mr. Dahilig: As I indicated, if the cases come to us, they are going to get worked; however, one (1), I am sure we can do but I think the public

wants us to do more than one (1). From our perspective—and I have handled zoning prosecutions in the past where we have actually gotten convictions and sent people to jail; you are right. It is not rocket science and as the Chair said earlier, there is low hanging fruit out there that we can go out there and pick. If we are going to make a serious dent in this issue, these are not going to be cases that are like a speeding ticket. There is going to be a lot of paper involved and a lot of building cases involved. The Council's funding priorities are absolutely within your *kuleana* and if you want us to do one (1), I am sure we can do one (1). If you want us to do fifty (50), we need more resources.

Mr. Kagawa: I think my thing was more for Mike, if Planning could one (1). I think I have less of a problem adding one (1) on the prosecuting side because I would not want to see less attention given to normal crime stuff. For Planning, you have got the vacancies and maybe you could use those positions to at least create one (1). I think this should be a high priority and maybe we can work something out where we do not have to add moneys to the Department. I do not know if you could look at that suggestion. Thank you.

Ms. Nakamura: Before your questions, can I just clarify, you need to be...

Mr. Dahilig: My flight is at 12:30 p.m.

Ms. Nakamura: I think there are many other questions that we have for you, Mike, and I do not think it works with just Justin here. I think it is good to have both of you here. I think we will have to defer this matter, take this up at another Council meeting, and carry on our questioning at that time. Councilmember Hooser, do you have a process question?

Mr. Hooser: Before we take a vote on a deferral—they can leave, but I had a question for the County Attorney on the issue.

Mr. Nakamura: Is that something that is going to take a long time?

Mr. Hooser: No.

Ms. Nakamura: Okay.

Mr. Bynum: I just want an opportunity to make some comments before we defer, not more questions for now.

Ms. Nakamura: I think everybody else and I, myself have some questions. I know Councilmember Yukimura has questions.

Mr. Rapozo: I have a question, really quick. The dock property that you talked about; when did the notice go out?

Mr. Dahilig: I do not know but I can get that information for you.

Mr. Rapozo: Okay. Can you provide that?

Mr. Dahilig: Certainly.

Ms. Nakamura: We have a question for the County Attorney.

Ms. Yukimura: We can do that after they leave.

Ms. Nakamura: Can we?

Mr. Rapozo: I am done with them. I do not have any more questions.

Ms. Nakamura: Okay. We will call the meeting back to order and can we go straight to the vote?

The meeting was called back to order, and proceeded as follows:

Mr. Hooser: I have one (1) quick question for the County Attorney. I think it is relevant and the gentlemen do not have to be here.

Ms. Nakamura: Okay. County Attorney, could you please come up?

ALFRED B. CASTILLO, JR., County Attorney: Good morning, Vice Chair, Councilmembers. Al Castillo, County Attorney.

Mr. Hooser: I just have a quick question. I asked the question about liability earlier about the County has been informed publicly that there are people staying or building violations or maybe members of the public—there are members of the public living in, sleeping in, staying in structures that may be illegal, may be in a flood zone, or may be in a tsunami zone. The question is twofold. One (1), does that increase our liability since we are aware of this? Two (2), do we have a duty to inform those members of the public that they may be sleeping in a structure that is in a tsunami zone and that is not legally permitted?

Mr. Castillo: Yes...I hate to address your question in generality but if there was a specific issue on a specific house where we have been notified of an unsafe, permitted structure, then depending on—it is a case by case basis, depending on the information they receive, I would have to do a case analysis on our duty to inform. It is hard for me to just right in front of you—it is a case by case basis, depending the information that we receive.

Mr. Hooser: Okay, in the interest of time, I will not pursue it then.

Ms. Nakamura: This will be on a future agenda. Before we go into discussion, I would like to again say that a lot of people came out to this meeting—this is not for you directly, but just a comment that really, the time was set aside for this agenda item. I feel very disturbed that we have to cut it short and not complete the discussion because the main person that we need to have this discussion with had to catch a flight. I just want to express the concern. I think everyone here around the table feels bothered by that. Before I ask for comments from the Council, I would like to ask if there is any public testimony. Glenn, please come up.

There being no objections, the rules were suspended.

GLENN MICKENS: For the record, Glenn Mickens. Thank you, Nadine. I just have one (1) quick comment, which was not brought up. We had a member from the public who had uncovered this thing. Why are we paying people big bucks to find out what is going on, yet we had to have Ms. Conrow back here bring this thing to the public. This would have never been even brought up probably has she not done the investigation, but she is not being paid to investigate this thing. Anyway, this is the biggest issue, I take, is that we are paying our people big money to investigate these things, so why should we have to wait until a member of the public has a blog and brings it up. She did a great job. Anyway, this is my big question. Thank you, Nadine.

Ms. Nakamura: Would anyone else like to testify? Can you please introduce yourself for the record.

JOHN FRIEDMAN: Thank you very much. For the record, John Friedman, Kilauea resident. Without going into the details of my particular circumstance, I would like to first of all just thank the Council and the Chair for their passion about this issue. There are two (2) illegally operating vacation rentals on our Condominium Property Regime (CPR), on an agricultural zoned area. My understanding is that since they were denied their permits back five (5) years ago, March 7, 2008, that the County could be eligible for eighteen million dollars (\$18,000,000) per unit in and back fines of ten thousand dollars (\$10,000) a day, according to the legislation that you wrote. It is an important issue to realize that five (5) years is just far too long to begin the enforcement process and I heard that passion coming from Councilmembers Hooser, Rapozo, Furfaro, Kagawa, and others on the Council here. It is a difficult, difficult proposition to have a "turn your neighbor in law." The responsibility for enforcing County ordinances should rest with the County. The question of resources is self-evident. The moneys that will be reaped from the hundreds of individuals who are cheating the government out of the proper authority to enforce their own ordinances will pay for further enforcement. You do not need to come up with a bunch of money to get enforcement. You need to enforce one (1) big fine, hire somebody, enforce two (2) big fines with people that you hired, enforce eight (8) big fines with the people that you hired, and it will be self-perpetuating. The segway into this testimony today was the thing about the TAT tax taking thirteen million dollars (\$13,000,000) a year out of the County's coffers. Thirteen million dollars (\$13,000,000) a year and I am here to tell you that one (1) illegal vacation rental operating illegally since March 7th, 2008 could potentially be worth eighteen million dollars (\$18,000,000). Do I think you could collect eighteen million dollars (\$18,000,000)? Probably not, but you have it in your Ordinance that they could be fined up to ten thousand dollars (\$10,000) a day. I had the opportunity the other night to watch an interesting National Geographic program on cheating. When a golfer is cheating without being called to issue while he is cheating, and other golfers see it going on, what is the response of the other golfers? They start cheating. That is exactly the setup that we have here. There is no enforcement. Everybody knows that the County is—excuse the terminology, is a "laughingstock" when it comes to enforcement on this TVR issue. They are all going to begin to start to do it and you see it all the time. It is time to take action on it. By the way, the individuals at the Planning Department and the Prosecutor's Office are all very, very nice people; all very, very well meaning; but clearly unable at this point to complete a cohesive and comprehensive approach to enforcing illegal TVRs, as pointed out by Ms. Conrow, circumstance as pointed out by the countless appeals in our particular case...

Ms. Nakamura:
three (3) additional minutes.

That is your first three (3) minutes. You have

Mr. Friedman: Okay. Thank you. I believe that it is so very, very important, that if we are going to pass laws and we are going to pass legislations that we have the intent to force them. It is not the responsibility of the neighbors to get in that position of having to turn your neighbor in, but the responsibility of the body that pass the law to enforce the law. It is very, very important. It is a tough law because it creates terrible animosity within your communities and your neighborhoods to put us in that position.

Ms. Nakamura:
Councilmember Rapozo.

We have a couple of questions for you.

Mr. Rapozo: Thank you for being here and putting yourself up on the television to complain. You are right, you should never, ever have to do that. That is our function, but it is not happening. You heard my discussion earlier about a Council Investigation, and what a Council Investigation is, is an authority granted to us by the Charter and we go out and retain the services of an independent third party to look at any specific function in this County; any program, any department, if this council believes it needs to be looked at because what you are talking about is a problem that has been going on for a long time. Resources have been provided, training has been provided, but it is simply, in my opinion, a problem. It is a lack of the political will to get it done. Do you support the Council utilizing its investigative authority?

Mr. Friedman: Without knowing the details of the investigative authority, I would certainly hope any investigative authority would be informative in nature and not necessarily summative.

Mr. Rapozo:

You are right.

Mr. Friedman: I would hope that an investigation's purpose is to increase the productivity and the ability to react to the issues brought forward by the community, and to help those in need with appropriate training and the ability to enforce that through a cohesive working relationship with other departments and groups. With that said, I do believe that it is clear that one (1) of the greatest issues is not just Transient Vacation Rentals. It is a huge issue and one (1) I am here about today, but it is clear that zoning violations in general are a huge, huge issue; and that the lack of enforcement, lack of understanding, lack of clarity with the public, and lack of communication with the public all play a role in that zoning issue problem. The Transient Vacation Rental is kind of on the hot burner now because it is the most recent law that was passed. But yes, I would support something that was formative in nature and not necessarily punitive in nature.

Ms. Nakamura:

Councilmember Kagawa.

Mr. Kagawa: Thank you. I just have a question. The property where you live—and you do not have to answer this if you do not want, but is it *mauka* or *makai*?

Mr. Friedman:

In Kilauea?

Mr. Kagawa:

Yes.

Mr. Friedman:

We are on the *mauka* side of Kilauea.

Mr. Kagawa:
about been reported by Ms. Conrow?

Okay. Has any of the ones that you talked

Mr. Friedman: Yes, absolutely. Just to give you an idea of where we are on in the process, the Transient Vacation Rental that was initiated for us was denied its Transient Vacation Rental permit, based on the seventy-five percent (75%) CPR rule. Seventy-five percent (75%) of the owners within the CPR did not agree to the use of the Transient Vacation Rental within the property. In this particular case, it happens to be that the Transient Vacation Rental operators own fifty percent (50%) of the CPR, two (2) out of four (4) units. Ourselves and one (1) other, and I am speaking on behalf of my other half here, but ourselves and one (1) another CPR definitely were opposed to the Transient Vacation Rental use. We feel that the Council erred in giving the wrong doers the evidence and the ability to make further money. Over my lifetime, it would be something in the terms of five million dollars (\$5,000,000) on what they are making on one (1) of their Transient Vacation Rental, approximately two hundred thousand dollars (\$200,000) per year. They are making two hundred thousand dollars (\$200,000) a year on what Judge Nakamura—hearings officer, Nakamura, said was never a legal use and that it was never been legal to have Transient Vacation Rental use on agricultural property. The Council, I believe erred when they said, “Well if you can prove to us you have been paying Transient Accommodations Tax and that you have been paying General Excise Tax on your illegal Transient Vacation Rental, that you will now have the right to make two hundred thousand dollars (\$200,000) a year if you fulfill the other rights.” I believe that was an error. With that said, that is the Law. That is how it passed. That is how it went through. Those individuals that have not been able to comply with the requirements under the Transient Vacation Rental Law that you passed, continue to do so with impunity. They simply are not punished. They are making two hundred thousand dollars (\$200,000) a year. Their property values are higher. They have one (1) more stick in their bundle of property rights. They have to right to Transient Vacation Rental, whether it is legal or illegal and decreases the values of the properties around them; the neighbors. It is a very, very difficult circumstance where you are favoring the wrong doer. I believe it is an improper law in general, but with that said, I would like to see some prosecution. I did answer your question?

Mr. Kagawa:

You did.

Mr. Friedman:

I did not answer it well enough. I apologize.

Mr. Kagawa:

No, you did.

Ms. Nakamura: He is satisfied. Councilmember Bynum has a question for you, as well as Councilmember Yukimura.

Mr. Bynum:

Hi, John. Nice to see you.

Ms. Nakamura:
break at 12:30 p.m.

Just before we start, we would like to take a

Mr. Bynum: Yes, I am going to be really quick here. In your circumstance, the individuals are operating a TVR, but they did not receive a permit? Is that correct?

Mr. Friedman: They are operating two (2) Transient Vacation Rentals. They applied for a permit on one (1) and were denied based on the seventy-five percent (75%) CPR rule. On other one (1), they have continued operating "as a bed and breakfast," but it is no longer a home stay. At the time, they actually had an individual who resided on the property...

Mr. Bynum: They do not have a permit?

Mr. Friedman: Neither one of them has a permit.

Mr. Bynum: This issue—in my view of the Law that the Council passed said, "We are going to give you an opportunity to apply." In this instance, they did not meet other legal criteria.

Mr. Friedman: That is correct. They are appealing the process. To go back to the whole speeding ticket thing, when I get pulled over for speeding, I do not get to have the opportunity to tell the police officer, "You are wrong and I am going to appeal; therefore you cannot give me a ticket." That is the way they operate within this Transient Vacation Rental world.

Mr. Bynum: I get it, John. Thank you.

Ms. Nakamura: Councilmember Yukimura.

Ms. Yukimura: Hi John.

Mr. Friedman: Hi, Councilmember Yukimura.

Ms. Yukimura: Thank you very much for coming and speaking up. Your perspective and your information are very, very important for us in terms of understanding what the issues are. What I hear you saying is that it is not just about people getting permits fraudulently or illegally, but it is people either being denied and not getting permits at all and then operating with impunity.

Mr. Friedman: That is absolutely correct and it is not difficult work.

Ms. Yukimura: Yes.

Mr. Friedman: If you just want to find illegal vacation rentals, I could find a zillion for you in a very, very few moments. It is not difficult to find them.

Ms. Yukimura: Right. I think I had some questions for the Planning Director Dahilig in terms of really supporting what has already been said on the floor, in terms of taking one (1) or two (2) case examples, and moving forward with prosecution on them to begin to get the message out, that the County will not tolerate this kind of illegal activity. You are a realtor?

Mr. Friedman:
is correct.

I am a realtor for the last dozen years. That

Ms. Yukimura: Okay. I also got word recently that realtors are selling property, and this happened to be an Ag parcel as well, allowing buyers to think that they can get permits for operating on Ag land, which is not true if you do not already have permits. I am just wondering how they might be able to be addressed as well, through realtors and through the public pressure or consensus, whether the Board of Realtors and others could get involved in some self enforcement in terms of proper information to people?

Mr. Friedman: I think that when you talk about misinformation, poor guidance, or actual disregard for the actuality of information regarding a piece of property, that is probably an issue that would certainly be buyer to realtor related. I certainly believe that the most ethical of realtors tell their clients about the truth about the Ag buildings that cannot be permitted and cannot have people living in—we have an Ag building in our neighborhood as well, that is nicer than the house. That is not uncommon, right? All of that kind of thing, Transient Vacation Rentals; I believe that an ethical realtor has a responsibility to move forward and tell people exactly what that circumstance is. There is no question that an active role by the Planning Department, the County Council, and others with the Kaua'i Board of Realtors in informing them as to what the intent of the law is, is very, very important. I want to go back to your previous comment...

Ms. Nakamura: I am sorry, we need to move on. We have many other speakers and a full agenda. Councilmember Yukimura, do you have another question or can we move forward?

Ms. Yukimura: Yes, I would like to know what you wanted to say.

Mr. Friedman: I just wanted to comment on the low hanging fruit that Mr. Furfaro, Gary, yourself, and several people talked about with Prosecuting on what are two (2) of the really egregious ones. You just do not pick the low hanging fruit...

Chair Furfaro: Let us make sure we understand each other. I said that is where to start.

Mr. Friedman: That is where it starts, right.

Chair Furfaro: Let me be very clear. It has been twelve (12) years.

Mr. Friedman: Exactly.

Chair Furfaro: Twelve (12) years.

Mr. Friedman: I would agree completely. It is not just the low hanging fruit that you want to grab, as Jay will tell you; you want that big, fat mango that is hanging there, ready to go. I would suggest that if the Planning Department chooses to go after people, it is the people that they can give serious, serious fines and then have the ability to pay serious, serious fines so that you can continue your enforcement.

Ms. Yukimura: Sometimes you do not know because it looks like it from the ostensible evidence, but when you into it, the documentation has to be there. I think they should start. Thank you.

Mr. Friedman: Thank you very much for your time and all of your passion each of you exhibited towards this matter.

Chair Furfaro: Thank you. Can the next speaker come up? I am sorry, Joe. I will recognize you before we break for lunch. I want to also point out to the other personnel here if you misconstrued my comment. My comment was the fact that the low hanging fruit exists and we do not necessarily need to wait for State departments to act. We can act. I used the Health Department in that example.

JOAN CONROW: Thank you very much. My name is Joan Conrow. I wrote the blog "Kaua'i Eclectic," that has so far documented sixteen (16) properties, covering about twenty-four (24) non-conforming use certificates related to TVRs. In looking at these, we did not look for ones that we thought were in violation, we just started. Of all the sixteen (16) that we looked at so far, every single one of them had serious problems and irregularities. What this says to me is that it is a very deep problem that is probably affecting all, if not all or almost all of TVRs that were approved. I have been hearing a couple—I was a little bit concerned about Mike's presentation. I agree with you that it was unfortunate he was not able to stay for the entire time, particularly since this is tied to the Budget issue. I was also disappointed there were not a little more concrete actions laid out because as Ross and other people have mentioned, we have given them sixteen (16) properties pretty well documented, that all they really have to do is look at their own files to cross check. From my understanding, they have done that and they have not found errors in what was reported. It seems like these are sixteen (16) that they could be going after. Some of these sixteen (16) or at least two (2) that do have Cease and Desist orders against them, and I am not sure if they have actually been given their renewals yet. There are some that they are processing, even though they have these outstanding violations. Mike also mentioned that he is trying to work towards this bubble of July 31st, when the renewals come up but in the 2010 revision to the Law, that July 31st date was taken out, and so now the renewals are one (1) year from the date of issuance. I am glad to hear he is working towards it, but I share the concerns of Mel and Jay that this has been going on for a very long time. Back in 2008 and 2009 when they first started implementing the Ordinance to protect our neighborhood *'ohana*, gave the Planning Department specific names of properties that they already knew had problems and warned them to look out for these properties when they were doing their reviewing of their applications. They were pretty much blown off because all these people ended up getting these applications—they ended up getting their permits anyway, and they have continued to have these problems like downstairs enclosed, a multi family vacation rental, and that sort of thing. It worries me when you have a Planning Department that I know there was a different Director at the time, but you have a Planning Department that was alerted to these problems, yet went ahead and approved them anyway. That is why I personally do not think the Planning Department should be given eighty thousand dollars (\$80,000) or any amount of money to go in and sort of try to fix this problem because they are the problem, along with the Building Department. I like the idea of an outside investigation that could come in and say, "Let us look at all of these three (3) and how they interact with each other and figure out where the problem is in implementing the Law because it was implemented very, very poorly." The other

thing that I was concerned about was that the 2010 change to the Law actually made some of these problems worse because as I documented—there were a number of people who applied under 2008 Law who did not provide all of their documentation that they should have in terms of proof that they had been operating for thirty (30) days, proof of tax payments, and that sort of thing. Yet, they got their permits anyway. These people have been continually renewed, as long as they are sending in their renewal form but in the meantime, the Law was changed in 2010 that took out those requirements for proving that they paid taxes, had a reservation log, et cetera, as well as the inspection requirement was removed in the 2010 Law. Now, there is pretty much nothing. There are so little teeth in that Law in terms of how you really go after people who gained the system from the very start, as well as those who have violations currently. There seems to me that there is kind of a three (3) prong thing that needs to be done, which is an investigation into what went wrong. Is it corruption? Is it incompetence? Is it laziness? I do not know what, but something that would figure out why the law was implemented so poorly. I think perhaps the Council might want to revisit the Law and see if there are ways where they would want to add a little more teeth to the enforcement to make sure that people who are in their improperly could get weeded out. I keep hearing Mike say things like, “We are going to look at this and work toward compliance.” Some of these people do not deserve to come into compliance. They deserve to lose their certificates because they got them fraudulently. It really worries me when I always hear Planning aiming toward this compliance thing, when there are people for three (3) years running, have been out of compliance. How many chances to do they get? Meanwhile, they are making fifteen thousand dollars (\$15,000) a week on this stuff. I think that could be looked at. In the meantime, I think there certainly should and can be some enforcement by the Planning Department and the Prosecutor’s Office, but particularly the Planning Department because as we pointed out, we have given them this information. One (1) is great, but why not sixteen (16)? These are all egregious problems that resulted in serious neighborhood problems, environmental problems, and other issues. I am just so grateful for the Council being willing to look at this issue. It is an Administration problem, but I am glad that you guys are taking a look at it and maybe we can figure out why there has been no political will in the Administration’s side to enforce this issue because that is where it has been lacking. Thank you very much.

Chair Furfaro:
subscribe to your electronic...

Joan, thank you very much. I do not

Ms. Conrow:

There is no subscription.

Chair Furfaro:
you could provide me a hard copy of those sixteen (16) and just as a citizen if you could write it to me.

I just never got it on my radar screen, but if

Ms. Conrow:

Okay.

Chair Furfaro:
of low hanging fruit.

I think they might be falling in the category

Ms. Conrow:
them are already on the ground.

Yes, they are very low hanging. Some of

Chair Furfaro:
that. Thank you.

If you could do that for me, I would appreciate

Ms. Conrow: I would be happy to send them over to you.

Ms. Yukimura: Hi, Joan. I first want to thank you for your great service to this community. Without your blog, I do not think the kind of political will that is developing would have happened. I feel like you have really exemplified the highest of investigative reporting on several subjects that are very, very important to the community. Thank you, first of all.

Ms. Conrow: Thank you.

Ms. Yukimura: On the question, you say that the Planning Department has actually cross checked and found that the details that you have raised in your blog are accurate?

Ms. Conrow: I do not know if they have looked at every single file, but I know that Mike was asked by the Mayor's Office to look at some of my posts and see if they were wrong. He said, "No, they were not wrong." I do not think he has gone through every file, but he has looked at some of them and has found—if anything, there was maybe where I said an inspection report was missing, maybe they found the inspection report, but even that was few and far between. It came from the County's records. This was not stuff where I had to go and hire a private investigator. It all came from County records so that is why it seems to me their own Department should be able to look in there and see, "What is wrong here?" It took time to sort it all out, but it is all public record.

Ms. Yukimura: Again, that is a great service. Thank you very much.

Ms. Conrow: Thank you. It is just because I care about this place.

Ms. Yukimura: I know.

Chair Furfaro: Members, I want to make sure that you all understand that today has been a postponed recognition for our Staff. I will ask to defer this item at the end after everybody testifies today, but if you want ask questions to Joan now, go ahead but please keep it short.

Mr. Kagawa: Thank you, Mr. Chair. Joan, have you found difficulty in getting some of the information from Buildings or Planning? Has there been resistance?

Ms. Conrow: Actually, Pono went to court twice to get information from the Planning Department about the vacation rental. Even though the Court ordered the Planning Department to turn over records, the County refused. Some time went by and later the County eased up and started to pass out some of the vacation rental files. I made the request when the County had the Federal Emergency Management Agency (FEMA) Audit. FEMA came in to check out all of the flood violations. I made a request for those files and have been working from those. Currently, any request for the TVR files have to go through the County Attorney's Office. There are some that are pending and I am just anticipating that they will continue to provide the information as they are legally required.

Mr. Kagawa: Just in closing, I want to thank you, too. I can see that you do it because you care about the degradation of the island, especially the North Shore area. Thank you. I think it is a task that we need to get a hold of soon or there will not be any land left. *Mahalo*.

Ms. Conrow: Thank you.

Chair Furfaro: Joan, may I ask you, I am surprised that they refused access to the public records. Did you fill out an Office of Information Practices (OIP) form?

Ms. Conrow: I filled out an OIP form that was honored. Initially, there was some request of whether I have to pay the fee, but Mike did waive that. In regard to those initial requests that were made through Pono, I think you better ask Babara Robeson and Caren Diamond who actually made those requests. It was my understanding that they did fill out an OIP and it was all denied.

Chair Furfaro: Okay. Mr. Bynum, do you have a question?

Mr. Bynum: I will keep it brief. I am very appreciative of all the people who have followed up on these issues and I am pretty upset about it. I will talk about that if I get time. I had a real specific question. It is escaping me. I am sorry, I lost it. I will try again.

Chair Furfaro: Joan, thank you. Ladies, I know you are from the North Shore. Did you want to give testimony? If not, Mr. Rosa, you can come up.

JOE ROSA: Good afternoon. I will try to make it quick and sweet because I know everybody looks hungry. Basically, I think all this boils down to enforcement. I can say this because way back in the 70s, when I was working at that time and the Kilauea Plantation closed down, and the land was being sold like crazy. It was being sold by the acres. The majority of those lots were classified as Ag lots. At the start, people were farming without even a house on it, but then afterwards I started to see big glass houses coming up. It seemed that those Ag lots were not Ag lots anymore. Again, it should have been boiled down to the enforcement, somebody of the Planning Department or whoever is supposed to be doing the enforcement. Even today, way back when I read the book "Land and Power in Hawai'i," it showed that if you knew somebody, you could get anything because all of those people who were in power, you could run to them and say, "This guy is giving me a bad time." The so called "local boy system" existed then. They would say, "Do not make waves already, I talked to somebody and they are going to take care of my problem." That is same thing probably going on over here. You know somebody or it is okay. Another thing is, "Oh, I am immune to the Law because I am a politician or I know somebody up there." Those are the kinds of things. I know when I had problems, too, I would go to my superiors, and they would follow up. I even had them blocking off the road in the north shore, because it was they were going to illegal from the State highway. No permits, no nothing. The State went out there and put a couple of big boulders along the edge so that those people stopped using it. Illegal driveways were making the State assessing for the accidents or anything, they would be liable for the liabilities. Those are the kind of things if that you just let them get away, that is it and they will continue and continue. There is no end. If you get a chance to get hold of the book "Land and

Power in Hawai'i," read it and you are going to see how much political people were involved. If you knew somebody, you could get away with it. That is probably the same thing that happened over here. They are going to say, "Oh, I know the guy in the Planning Commission. I know the Mayor. I know one (1) of the Councilmen. He will take care of that for me." That does not make those people able to change the law and take it into their hands. That is why we have all of these problems today. You favor one (1)—your dollar would buy what my dollar would buy, so we should be all equal. When laws are made, it applies to everybody, rich or poor, white or black or come what may. When these kinds of committees come up, everybody should be treated equally. You were given the opportunity to go by those laws. The realtors are also to blame because when you are going to sell somebody a piece of property, you should tell them from the start, "This is Ag land. This is urbanized land. You can build one (1) house. This is zone R-2, R-3, or R-4." They are to blame too. You should tell the person, "What do you intend to use the land for?" Those are the kind of things as I say, there are people to blame. The realtors are going to sell lands for the big company and in turn they have stockholders. I know in the land of power in Hawai'i, they work in the courts or for DLNR. That is the way all of this kind of local boy kind of stuff. They seem to get away. Sometimes, it plays an important part. There is no ignorance to the law or immunity to the law. What is good for the goose is good for the gander. I thank you.

Chair Furfaro:

Thank you. Anybody else wish to speak?

SHAYLENE ISERI-CARVALHO: Shaylene Iseri-Carvalho. Thank you for the opportunity to speak. I wanted to clarify some of the things that were mentioned. Back in 2010 when I was a Prosecutor, we actually had requested from the Planning Department approximately forty-four (44) files. Information regarding these files had been brought to my attention by Caren Diamond and Barbara Robeson. We made a request to the Planning Department and they refused to provide any of the investigative files and in fact, we needed to file a motion to compel the information in Fifth Circuit Court. There is an actual videotape of the hearing and there is an order by Judge Randall Valenciano, that ordered the Planning Department to provide all of the investigative files and that the files of the Planning Department, the investigative files, which is clearly written in the order is public. Any person can have access to any of those investigative files. But just to tell you, the extent of the Planning Department, who refused to cooperate with our Office. At the time like I said, all of this information and the reason why we knew about it was because it was brought to our attention back in 2010 by Caren Diamond, and I had meetings with her and also Barbara Robeson. The role of Prosecutor, if it chooses to, can be proactive because they can request for all of the files, as indicated and questioned by Councilmember Rapozo. Where else would you get the information? From the community. Often times we get anonymous complaints that we can follow up on or if their names or TMK numbers are given. The files are public records. There is a specific order that requires because this issue has already been litigated and settled in Fifth Circuit Court, that they are public records. The community members in the files—would often find in the case is that information that had been provided by Ms. Diamond to the Planning Department—when those records were ordered over to our Office, a lot of the information was missing and so we were not able to prosecute on those cases. Later, I contacted Caren and she said, "Why is this picture not in there? Why is this not in there?" We did then go down to the Planning Department to just see. It is a nightmare down there. They have things that are not in electronic form. They have individual files that are actually filed at the time that I went by TMK numbers. Nobody would know what a TMK number is. You would need to file it under a person's name or an address which is a lot easier,

but definitely a TMK number is a very difficult number to try to track in order to retrieve a file. What we had discovered, because we did allocate a Prosecutor; we had enough resources. These are not difficult cases prosecute, especially because a lot of the information that was provided by the community was so strong. There were numerous diagrams and plans that were provided.

Chair Furfaro: That is your first three (3) minutes. Go ahead.

Ms. Iseri-Carvalho: It was very clear to me that there was no will to enforce, and that the Planning Department was going to do whatever possible to not allow enforcement. What we ended up doing was getting the investigation from the community because there were a lot of calls that came into our Office regarding violations of TVRs. Under my administration, we also prosecuted two (2) TVR violations and both got jail terms on their first offense. They got thirty (30) days in jail. The courts do look at these as very serious and egregious offenses. Despite the fact we did not get any sort of coordinated effort between our Office and the Planning Department, we were still able to prosecute cases. But of course, it was made more difficult because clearly agencies who work in this kind of case, because the Code requires everyone who has a duty for enforcement to enforce. I looked with positive optimism that these cases will continue to get prosecuted because they were a high priority in our Office. Again, I understand the trials and tribulations of the community in trying to get these cases put forward even to get to compliance, but more importantly, if there are numerous violations, especially when they affect health, safety, and welfare of other citizens, then criminal prosecution is always an option to pursue.

Chair Furfaro: Thank you.

Ms. Yukimura: Thank you for being here, Shay. Which two (2) cases were prosecuted to the point of jail terms?

Ms. Iseri-Carvalho: It was Robby Silva—and not necessarily a TVR, but a violation of a zoning. The other one was in Kapa'a that Les Milnes had worked on for three (3) years, where there was a base yard and the housing was giving out vouchers. There were like twenty-five (25) people that were living in a structure. I cannot remember the guy's name.

Ms. Yukimura: So these were not TVR violations?

Ms. Iseri-Carvalho: They were Planning violations.

Ms. Yukimura: They were zoning violations?

Ms. Iseri-Carvalho: Yes.

Ms. Yukimura: Okay. They actually resulted in jail terms?

Ms. Iseri-Carvalho: Yes, both of them.

Ms. Yukimura: Okay, great. Thank you very much.

Chair Furfaro: Just for your information, JoAnn, the one that left notice, that was a complaint I filed with the illegal houses.

Ms. Iseri-Carvalho: In fact in that case, the resident landowner had paid because Planning had not wanted to provide any more resources or did not have it. Either way, there were no resources to pay for a helicopter to do aerial photographs, which was the basis for our evidence in order to prosecute. He came in and pled guilty to that. In fact, I believe the County Attorney represented that person. He was the defense attorney at the time, and our Office prosecuted.

Ms. Yukimura: Thank you. I am vaguely remembering it now when you mentioned helicopters.

Chair Furfaro: Thank you, Shay. Nice to see you. Thank you for your testimony. I will take one (1) more testimony now and we are going to break for lunch. If we have to come back for testimony, we will.

KEN TAYLOR: Council Chair and Councilmembers, thank you for having this item on the agenda today. I think it is long overdue for getting some results, and I want to thank Joan for all the work that she has done on this issue and whoever helped her gather information. I think she has done a wonderful service for the community. I just find it really difficult that this issue has been dragged on so long without coming to some results. I talked to people all over the island, and there is a lot of people that are just so frustrated out there over this issue, and the lack of anything being done by the County. It is really a shame that it is this way. I have said in reference to other issues that if we had a County management style of Government, this kind of thing would have been resolved a long time ago. Heads would have rolled. This would not have dragged on for twelve (12) years because if a County manager allowed this kind of activity to take place, you as the Council would have his head rolling very quickly. I think it is time not only to bring an end to this kind of problem, but I think it is time to have the discussion on the floor here to put something on the ballot to give the people of this island an opportunity to look at a management style of government. Thank you.

Chair Furfaro: Thank you, Ken. We are at a 12:35 p.m. mark and it is an opportunity for us today to recognize our Staff for lunch because of some recognition that I will share when we come back from lunch. Is there anyone here that absolutely would not be available to come back after lunch to give testimony? Is there anyone that wants to give additional testimony? If not, I would like to entertain a motion to defer this for two (2) weeks.

Ms. Yukimura: I wanted to say something before. Could we just break for lunch and come back and have discussion and then defer?

Mr. Rapozo: Or Mr. Chair, if we could limit the discussion to a minute from each Councilmember, we could be out of here and dispose of this item in six (6) or seven (7) minutes.

Ms. Yukimura: Well, either way.

Chair Furfaro: I will tell you what, I am going to make a decision and go ahead and recess. When we come back, I will call us to order and we will go around the table. How is that? For those that may not come back after lunch, I think it was important for me to state that I plan to have this hopefully deferred and be back in two (2) weeks. Again, the Planning Director has left and it

is unfortunate, but I did not think the Legislative piece this morning would go almost two (2) hours as well. We are going to recess for lunch.

There being no objections, the meeting recessed at 12:37 p.m.

The meeting reconvened at 1:42 p.m., and proceeded as follows:

Chair Furfaro: We are back from our lunch break. I would like to call the meeting back to order. Can somebody check outside of the door if there are any members of the public who are present that perhaps wanted to hear... On that note, Mr. Kagawa, I will give you the floor.

The meeting was called back to order, and proceeded as follows:

Mr. Kagawa: Thank you, Mr. Chair, for putting this on the agenda. I remember when I first announced and I had to go to those forums and we were all there. It was unanimous. All nine (9) of us candidates were all in favor of trying somehow to attack this issue. It takes obviously the Planning Department to lead the way. I think we are still waiting for that. I am hopeful that this is the year that we will have some good news on it. Am I confident that it will get done? I cannot say, but I think the Council is at least putting it in the public eye, and hopefully, we will have a good result. I would just like to thank Barbara and a lot of those volunteers who have spent many countless hours doing a dirty job of exposing clear violations of our laws and basically those people who are abusing the system. In return, are restricting access and damaging some of our shoreline areas. I just hope that we can cure this problem and have a level playing field for everybody. I think that will be the day that Kaua'i becomes brighter. Thank you.

Chair Furfaro: Thank you. JoAnn, I am going to recognize you next for closing comments.

Ms. Yukimura: Thank you, Mr. Chair. I know that this conversation will be continued because I expect that the Council will defer this matter. I want to say a couple of things. One (1), I want to turn the question that I wanted to ask Mr. Dahilig and did not have a chance to because he had to leave. I want to maybe ask the question publicly. It does basically support or just add to what has been said around this table. First from you, Chair, about choosing the low hanging fruit and doing some immediate enforcement, and then Councilmember Hooser's point about taking the most egregious case. Also, Councilmember Kagawa saying to take one (1) of the sixteen (16) that has shown up in the blog. I would like to ask Mr. Dahilig, too, perhaps select three (3) of the most egregious cases. Even though the record may be incomplete, to work with the Prosecutor to use it to build capacity, use it as working examples, and work together to bring that to a conviction or a fine or some level of enforcement. No enforcement really hurts everyone and we heard some really graphic examples from the public today. It encourages flaunting of the law. It allows neighborhoods to be turned into resorts. It encourages violations of all zoning ordinances, and in reverse, it could begin to give us a really good capacity in the Planning Department to enforce all zoning ordinances. Most of all, to address this TVR problem and to send a message out to others who are thinking about doing TVRs or who are doing TVRs illegally, that the County will not allow and stand for such violations. In closing, I just do want to thank again, Joan Conrow for her excellent reporting, and for bringing this matter before the public in such a specific way that it cannot be ignored. I also want to thank Caren Diamond

and Barbara Robeson and others who have been working for many years to address this problem.

Chair Furfaro:

Anyone else want to speak on the subject?

Mr. Bynum: I hardly know where to start because this is an issue that I have been tracking for fourteen (14) years or since the 2000 General Plan. What I want to say is that who has not failed in this issue is the citizens and people of Kaua'i. They told us very clearly in 2000, in the General Plan, that they considered this a problem and that we needed to act on right away. Despite that, it was not until March 7, 2008. It took eight (8) years after the General Plan to start regulating and we all know during those eight (8) years, TVRs proliferated. It was clear from 2000 that we needed to address this issue, and we finally did on March 7, 2008. Unfortunately, there were major flaws in that Legislation in my opinion. We entertained another bill that I worked with the Planning Department on, and I introduced the bill and own it. I believe that bill, while still controversial, was better than what we had and had it been properly implemented, then we would be in better shape. I know that bill included very strong provisions that we are hearing now, nobody even bothered to ask for these documents. The law requires that each application show through a number of different means that they were operating in the year prior to March 7, 2008. What we are hearing from this investigation that has been done, again by citizens, not by the County, is that those documents do not exist in the files. I am really upset about that. The people have not failed us, but government has failed to address this issue at all levels. I have to own some of that, too. When our bill passed in 2010, Council Chair Furfaro and I did deep probing with the Planning Department. "What resources do you need to implement this?" We were given repeated assurances that we would be fine. I know where I failed was with trusting that, because it is clear that that did not happen. During the two (2) years after the law passed was an abysmal record of dealing with this law. Since the new Planning Director has come in, some portions of that were done quite well, I think. There was a lot of attention on TVR/Ag. On Ag, people predicted there would be hundreds, maybe thousands, of applications for TVRs on Ag. I made sure that bill had a provision that said you have this window to apply and after that, forget it. Only sixty-six (66) people applied on Ag land. What appears to me is that so much of the new Director's attention went to those sixty-six (66) permits, which I think were handled pretty well overall from what I can see. But the other permits, just dysfunctional and not following the law just continued. I take responsibility for that because I should not have trusted and I should have followed up sooner. Here we are now. A lot of suggestions have come about how do we deal with this issue and a lot of them are really good. It may be in the long run, that the answer is all of the above. What do we need to do to address this? Do we need to have a Council investigation? Do we need to support Justin Kollar in the position he is asking for and to appreciate the two (2) agencies finally working together? It is also important to bring Public Works into this discussion because the other concerns about violations of the flood zone and people at great risk. I lose sleep over this about the flood zone. From what I can tell so far from my own investigation, it was not like a nefarious thing; it was that this Department does not talk to this Department. There never was a mechanism to find out if the permits—for years, we just accepted whatever the applicant said the value was. There was no mechanism to do it because from one Department's division, what difference does it make? They were not talking to Planning. We have a lot of work to do and we are going to talk more about this. I share Councilmember Rapozo's frustration. I believe that all the Councilmembers who have addressed this issue over the last six (6) seven (7) years have acted in good faith. We have not agreed about the proper way

to deal with the issue, but we all knew it was a serious issue that needed to be dealt with. I feel personally a lot let down by just abysmal or not effort made to comply with even the simplest aspects of the law. I want them to comply with the complicated aspects too, but the simple ones? "You did not provide this document, you do not get a permit, period." That is the way the legislation is written. That clearly did not happen in how many—we do not know how many instances. We are going to have different proposals about how to address this and maybe need to do them all. We will see, thank you.

Chair Furfaro:

Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you, Mr. Chair. First of all, I am not going to debate the merits of the bill. That bill passed and I will say I was not here during that time, but I did participate in the discussion. Unfortunately for the Councilmembers who believed in the Planning Department, that believed that in fact, this was going to be a better bill for a better Kaua'i; they were misled. I am the skeptical guy, yes, because that is just my nature. But for the trusting Councilmembers that felt it was going to work, I feel for them because today they are looking back saying, "Gosh, it is worse." It is because the Planning Department failed to hold up their end of bargain. I do want to address a comment that Mr. Bynum made when he talked about the 3.17 Investigation. He was concerned that we might be setting a precedent. I hope we set a precedent. I hope this Council sets a precedent by telling the Administration that if you keep screwing up, we will investigate your butt. I am over it already. Twelve (12) years is only the time we have been here, Mr. Chair. How long before we got here has this been going on? I hope we set a precedent. I am glad that we set the precedent. We should have set this precedent a long time ago. To sit here and the Planning Director tell us, "I am not going to support an investigation." Fine. That is why that is in the Charter as the Council's authority. We do this when the Administration says, "I do not want to cooperate." Then we go and go do an investigation. I can only hope that four (4) of us on this body will support that resolution to get it done. I can only hope that four (4) of us do that because if not, like my grandmother used to tell me, "No complain." We have heard it all already, every single year. The other thing for the Planning Director, and I know Mr. Chair that you tried to justify his departure with an emergency meeting or whatever it was, but it is not the first time that the Planning Director had to leave the building, whether it is the Board of Regents appointment or something. The Chair has always said that Wednesday is the Council's day and that is disturbing. That has been echoed by a few Councilmembers that in the middle of some very quality discussion, "Oh, sorry guys, I have to leave." Really? It is embarrassing, in my mind. I stated earlier that I have absolutely no confidence, zero, not even a little. I have no confidence in that Planning Department and it is not going to take money. It is going to take political will. That is what it is going to take. That is not going to happen. That is why I think the investigation is necessary. The chronicles that Joan has written so well about and I think Councilmember Yukimura said that it was your bringing this to light that has really forced this County to take some sort of action. Caren and Barbara have tried for a long time to get this done, whether it was testifying at the Planning Commission, testifying here, and testifying during the hearings for the bill. Whether it was submitting their investigations, a lot of those pictures show up in Joan's blog are the same pictures that you sent me that we sent over to Mike Dahilig. He can sit there all day and say, "I am new to this job. I walked into this mess." That is crap. He has been informed via formal request of this Council under my signature of these investigations, of these violations, of these crimes and has chosen not to pursue. Whatever the dog and pony show that this three (3) or four (4) page document of

"what we are going to do," I do not buy it. As you can see, I am frustrated. If I screw up on the first time, shame on you and the second time, it is shame on me. I am shame because this is going on for way too long and with no intention of resolving it, in my opinion. The last thing is to sit up here and say, "We got the report back and our inspector's reports were inadequate," or whatever words he used. What kind of leader is that to come here and throw your inspectors under the bus and say, "They are not trained." I have seen those inspectors' reports, personally. I used to be a report writing instructor for the Kaua'i Police Department. There is nothing wrong with their training. There is nothing wrong with the way those inspectors wrote those reports. I can attest to that because I have read them. For him to come up here and blame the inspectors for inadequacy or whatever it was; pal, you are the leader. Take some ownership. I apologize if I am offending anyone but I am that frustrated. This County appoints people that are not qualified. They do not have experience. Here is over here today after a few years in the Office, now realizing, "Oh, it is now coming to mind that our filing system is messed up." Hello. That is what happens when we appoint people that do not have experience as a department head. I will end with that. Thank you.

Chair Furfaro:

Anyone else? Mr. Hooser?

Mr. Hooser: Yes. Chair, I will be brief. A lot of it has been said already, but I feel compelled to add a few closing remarks. I apologize for repeating what I may have said earlier. I will be supporting and cosponsoring the 3.17 Investigation Resolution. I think twelve (12) years ago when I was on the Council, we talked about using that power at that point. While the same argument some of them had made at that point was, "Well, we have never done this before. How are we going to do it?" I believe the founders or the writers of the Charter intended for this Council to use that authority. I believe that we are not doing our job or fulfilling our responsibility unless we use that authority on occasion. I believe it would be a very good message of accountability in the public's interest and for every County employee and every Department to know that the Council takes this job seriously and is willing to make those hard decisions, and do an independent, outside investigation that is credible to find out why and how this could have happened. I try to not judge people's intent or people's core values, and I will not do that here, but I will say that I do not have confidence that it is being handled properly. I think we have given every opportunity for the Planning Department. I would say that we have given every opportunity for the Administration because it is more than just the Planning Department. It is the Administration. It is the management of the County of Kaua'i, who is ultimately responsible for these actions. We have given every opportunity for the Administration to convince us that this problem is being handled. We are just not getting it. I am not. I understand the thirty thousand (30,000) foot level, looking at the big picture, planning for the picture, and getting all the databases and ducks in a row is important, but that does not preclude and should not stop on the ground here and now actions from taking place. We will talk about this in two (2) weeks, I suppose, and I am afraid that we are going to be talking about it again next year. We need to send a strong message and exercise the duties, powers, and responsibility of this Council and take this issue forward where it needs to go. Thank you.

Chair Furfaro:
ahead.

Anybody else before I summarize? Go right

Ms. Nakamura: I agree with the approach offered by Councilmember Hooser about looking at some desk cases, whether it is one (1) or

three (3), just to show that enforcement can happen and to figure out what it is going to take to get through that list because I think it is probably only the tip of the iceberg. I had a lot of questions I wanted to ask and to explore so I look forward to our discussion in two (2) weeks.

Chair Furfaro: Okay. Let me say a few things here. First of all, given every opportunity, I want to also put into the framework that those people who are operating illegally, they have also been given every opportunity to clean up their act. This goes back to the fact that from 2002 to 2006, Councilmember Yukimura and I coordinated a stakeholder's meeting that brought all parties to the table in making sure that they understood. There were ordinances that were going to be in the works to get this done. The first one (1) pops up in 2008. I want to correct Mr. Rapozo on one (1) item, if I may. I did not try to justify the Planning Director's departure but I tried to recognize that he was double booked. My disappointment is the fact that he did not have Dee Crowell, Peter Nakamura, or any of his staff members to fill that void when he had to leave. There has got to be more than one (1) person that is in that Department who is aware of this issues that have been going on. That was embarrassing. I also want to clear up Mr. Hooser, a little bit. I believe we did initiate 3.17 on a Police matter a few years back. We got the Resolution passed, and we did not actually get to a point where we initiated the investigation but I was on the Council that had the political will to do that. It is possible. I would also like to make sure that both you and Mr. Rapozo need to get the narrative together in your Resolution, so that if you are trying to get me to get it on the Council agenda soon, I need to make sure that the narrative is appropriately addressed in your Resolution. I am not looking at one (1) or two (2) test cases. I would look at why not cast the net that goes after those sixteen (16) that are the most serious? Besides the fact that I heard from the Planning Director, that was not sure of the amounts or so forth that they would need for any work at this time; I am going to throw a comment out to you folks. I would like to put seventy-five thousand dollars (\$75,000) or ninety thousand dollars (\$90,000) in this Budget that we are going to work on in the next four (4) days with a proviso different from the thirty thousand dollars (\$30,000) we put in previously that they could redirect any way once we gave it to them. With the proviso, that money is there with the intent to get something going and that the money is in the Budget, with the proviso, that says exactly what it is for. That would be appropriate for me. My will is there. I think the will of the body is there and so please consider making that money available when we get into the Decision-Making.

Ms. Yukimura: I just want to say that Chair Furfaro's reference to himself and I initiating the transfer of the Transient Vacation Rental Bill came from the urging of the community, in particular Caren Diamond. It was at her initiative that we took on the job of putting a bill through and I just wanted to acknowledge that.

Chair Furfaro: Thank you for that addition.

Mr. Rapozo moved to defer C 2013-182, seconded by Mr. Kagawa, and unanimously carried.

Chair Furfaro: Okay. We will be back in two (2) weeks on the subject matter. Please consider what I said about preparing some money to close some of these things out. Members, I would like to have a moment of personal privilege, if I may? As a member of the National Association Of Counties (NACo), of which the Hawai'i County, Mr. Rapozo is the President. I want you to go back and

note if you have gotten your article this year; Kaua'i County is named as one (1) of thirty-eight (38) Counties—this is the County, named for scoring an A+ in our records and communication people and the transparency. Only thirty-eight (38) counties received this rating. I have since learned that there are three thousand one hundred fifty-six (3,156) Counties in the United States and Kaua'i is at number fourteen (14). I also want to share with you that there will be a press release coming out, thank you to our team and all the fine work they have done. We have the update of the County codified codes. Our team has worked very hard and we had a little recognition lunch for them today. This document will be available very soon with the press release going out from our Office. I just want to say to the Staff, Christiane, Peter Morimoto, and everyone who helped to coordinate this. The document is here and available. It is also available on the web. I just wanted to give you an indication of how much work went into this to get us to a point that the codes were codified. I am very happy, very happy. Okay. Staff, thank you very much and on that note, we will move on to the next item.

C 2013-178 Communication (04/15/2013) from the Housing Director, requesting Council approval to decline the repurchase of property in the Villas at Pu'ali, 1962 Haleukana Street, Unit No. 62, Līhu'e, Hawai'i, and grant the owner a one-year waiver of the buyback to allow a market sale by the owner: Mr. Kagawa moved to approve C 2013-178, seconded by Ms. Yukimura, and unanimously carried.

C 2013-179 Communication (04/15/2013) from Councilmember Yukimura and Council Chair Furfaro, requesting Council approval to release the County Attorney opinion dated April 10, 2013 relating to Bill No. 2467, pursuant to Rule 2(a)(4), Rules of the Council of the County of Kaua'i: Mr. Kagawa moved to approve C 2013-179, seconded by Ms. Yukimura, and unanimously carried.

C 2013-180 Communication (04/16/2013) from the Director of Parks & Recreation, requesting Council approval to accept the donation of twenty-eight (28) Areca palms valued at \$4,200 from Joseph Brun to be used to landscape areas at the Wailua Golf Course: Ms. Yukimura moved to approve C 2013-180 with thank you letter to Mr. Brun, seconded by Mr. Rapozo.

Mr. Kagawa: Thank you to Mr. Brun for donating those trees. It is amazing. It saves the County money and hopefully we can make the course even more beautiful. Thank you very much.

Chair Furfaro: Thank you. I, too, would like to tell Mr. Joseph Brun a big *mahalo*. The golf course continues to improve itself; the facilities and the grounds, once we get that repair and maintenance done on the buildings, but these palms will be a nice addition. Thank you, Mr. Brun.

The motion to approve C 2013-180 with thank you letter to Mr. Brun was then put, and unanimously carried.

C 2013-181 Communication (04/19/2013) from the Director of Parks & Recreation, requesting Council approval to accept a grant valued at \$4,332 from the "Ananda Hawai'i Fund" via the Hawai'i Community Foundation for the purchase of a new hydraulic lift chair to replace the chair that was vandalized in January 2013: Ms. Yukimura moved to approve C 2013-181 with thank you letter to the Hawai'i Fund in the Hawai'i Community Foundation, seconded by Mr. Kagawa.

Ms. Yukimura: Thank you. I just wanted to express my dismay at vandalism of a hydraulic chairlift, which helps those with disabilities to get into the pool. It is sort of inconceivable, and just my gratitude to the Fund for replacing the chair. Anyway, I hope that does not happen again. Thank you.

Chair Furfaro: Thank you, JoAnn for those comments.

The motion to approve C 2013-181 with thank you letter to the Hawai'i Fund in the Hawai'i Community Foundation was then put, and unanimously carried.

RICKY WATANABE, County Clerk: Chair, we have C 2013-183; however, that item needs to be entertained after Executive Session 632.

Chair Furfaro: Okay. That will be entertained after Executive Session 632. Is there anyone who wants to testify for C 2013-183? Please come right up.

(Mr. Bynum was noted as recused from the meeting at 2:14 p.m.)

C 2013-183 Communication (05/02/2013) from the County Attorney, requesting Council approval to expend up to \$75,000 for Special Counsel's continued services provided for Defendant Shaylene-Iseri Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters.

Chair Furfaro: Mr. Bynum has left the room and recused himself. Shay, you have to introduce yourself again.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Shaylene Iseri-Carvalho. Mr. Chair, I believe this communication after speaking to Robert Katz, who was Special Counsel appointed to represent me in my official capacity indicated that he was requesting twenty-five thousand dollars (\$25,000), which would mean that the total would be seventy-five thousand dollars (\$75,000), but it does not appear that way on the agenda. I am not sure if the Councilmembers are aware of that or not. It is not asking for an additional seventy-five thousand dollars (\$75,000) over the fifty thousand dollars (\$50,000) that was previously provided. It is total of seventy-five thousand dollars (\$75,000).

Chair Furfaro: Okay. I will make reference to someone here. Do we have the correct amount here? Is Peter Morimoto available to us?

Mr. Watanabe: Chair, we are not taking action on the item, so we can clarify that in further discussion.

Chair Furfaro: We will get that clarified later. Thank you for pointing that out.

Ms. Iseri-Carvalho: I will continue then. I have on numerous occasions informed this Council and public about the conflicts that the County Attorney, Al Castillo, has had on me or the prior Office of the County Attorney (OPA). In this case, April 11th, depositions on Bynum and Mr. Delaplane were set in

the last week in April. On April 15th, a letter to the County Attorney was sent by Bob Katz requesting my presence at the depositions that were set because it would be helpful to have me present and requested approval for travel costs to O'ahu. On April 23rd, I received a notice from Bob Katz that the County Attorney did not authorize my travel to participate in the hearings. Because it was already set on April 23rd, the depositions for Bynum, which lasted approximately eight (8) hours, took place. On April 26th, there was a deposition for Mr. Delaplane that took approximately seven (7) hours. I previously had a preplanned travel and was off island and requested travel early back to Kaua'i was scheduled. I was again informed that the County Attorney did not authorize travel. Fifteen (15) hours of testimony that our Special Counsel could not have the availability to confer with me at the hearing, gives an impression that the County Attorney is purposely trying to negatively impact this case. This is no surprise, especially his blatant public support for my opponent and his prior interference with Special Counsel to settle the Vogt lawsuit, where this Council was shocked that their attorney counsel hid from this Council his conflict because Vogt was his wife's boss, hired by the new Prosecutor. I ask all of you, if you were being sued, the County being sued, would you not want to ensure that we put the best case possible, that at a minimum, you or any client be available and immediately accessible to help the County win? You sit here authorizing thousands of dollars, humongous legal fees, yet you continue to allow the County Attorney to participate, and in it case to refuse to pay two hundred dollars (\$200) for an airplane ticket. This action would appear to be malpractice, that only an irrational or biased attorney would make a decision as ridiculous as this. Do you rationally believe that the County Attorney can provide any unbiased opinion that involves me or my prior office? My attorney, Mr. Katz, has informed me that the County Council has directed Al Castillo to explore a settlement. This I understand was done, even before the Council had received any information regarding evidence taken under oath in this case. This, if it is true, is a travesty of justice. It is the duty of this Council to seek information and do its due diligence so that you can achieve what the public elected you all to do, which is to make informed decisions. I highlight "informed decisions." This matter is even more sensitive when as Councilmember Kagawa had risen previously, that it involves another Councilmember, suing the County and other County employees. The integrity of the Council is clearly at stake for resolving a matter involving a colleague before thorough investigation has been done. What is even more appalling is that despite the urgency of the County Attorney to seek a settlement, I have been informed by my attorneys, Special Counsel, Robert Katz, his associate and Austin McCullough, and Richard Wilson, who was hired to represent me in my private capacity, that there is, and I highlight, "absolutely no merit to any claims filed by Mr. Bynum," after the lengthy depositions under oath had taken place.

Chair Furfaro: Excuse me, that was your first three (3) minutes, Shay. You have the floor.

Ms. Iseri-Carvalho: The attorney has informed me that summary judgment motions to dismiss are being prepared; however, it appears that the County Attorney wants to encourage settlement before these motions are filed as mediation as early as April 17th, was raised by the County's Attorney. This was even before any discovery had taken place. While financial costs of litigation are important, especially if this involved private parties, in a government agency setting as public servants hired to do what is right, the reputation and integrity of the County and its employees is priceless. By settling lawsuits, we destroy the public faith because everything is hidden behind closed doors in Executive Session. In addition, it encourages more filing of frivolous lawsuits. If a person knows that the

County will always pay because the legal fees are higher, even if absolutely nothing or no wrong was committed, frivolous lawsuits by Mr. Bynum and others will continue to be filed. This wrong is further perpetuated because using insurance moneys only mean that premiums will sky rocket further. Eventually, settling leads to a much higher overall cost. Enough is enough. The truth needs to be told. Legal fees for investigations are appropriate. Legal fees to file motions to dismiss frivolous claims are appropriate. Legal fees pursue a trial are appropriate, but legal fees to settle this case is definitely not. Thank you.

Chair Furfaro: Shay, I just want to say to you that I will check on that number that came over, that seems to be the number that we got from the County Attorney. That did not come from our Staff, but I will look into it.

Ms. Iseri-Carvalho: I spoke to Katz earlier this morning at about 9:00 a.m. and was informed that he was requesting an additional twenty-five thousand dollars (\$25,000), that they had already spent approximately forty thousand dollars (\$40,000) out of fifty thousand dollars (\$50,000) that was given, so they are not asking for an additional seventy-five thousand dollars (\$75,000).

Chair Furfaro: Thank you. I will get that clarified. Secondly, I have to share with you that to this date, some negotiation of settlement, as Chairman, I am unaware of anything of that nature.

Ms. Iseri-Carvalho: Thank you. I would suggest and I would hope that when you all decide the appropriate amount of fees to be provided, that you have this discussion with Robert Katz because that is who provided me the information. I asked him again this morning because he had told me that earlier. I did not realize that this was on the agenda until recently, so I just called him.

Chair Furfaro: I will pursue that query. Are there other questions?

Mr. Rapozo: I have a question but before the question, I have a question for you, Mr. Chair. Is Mr. Katz going to be available today for the Executive Session?

Chair Furfaro: I am not absolutely sure.

Mr. Rapozo: Can we make sure that Mr. Katz is available?

Ms. Iseri-Carvalho: Mr. Chair, I did speak with Bob Katz today and he said that he received a call from Pam Cox yesterday that informed him to be available for discussions with you. He informed me that he was going to be available.

Chair Furfaro: The question was if he was going to be available but know I was asked at what time should he be available, so said as soon as we go into Executive Session would be best. I have not gotten a confirmation. That time was set for 3:00 p.m. Oh, he will be available? I was just informed he concurs at 3:00 p.m.

Mr. Rapozo: Thank you. Just in case we do not get Katz for whatever reason; when was the deposition?

Ms. Iseri-Carvalho: When was the information regarding the scheduling of the deposition or the actual deposition?

Mr. Rapozo: The actual deposition.

Ms. Iseri-Carvalho: The actual deposition for Mr. Bynum was April 23rd and on April 26th for Mr. Delaplane. I have E-mails that were sent to the County Attorney's Office requesting my presence. I spoke with Mr. Katz after the 23rd and he informed me that there was no authorization from the County Attorney's Office to pay for my air tickets. Then I also talked to him about the April 26th and he said he did not receive any authorization from the County Attorney's Office, but he did submit those requests in writing.

Mr. Rapozo: I guess if we could get copies of the E-mails, we would appreciate it.

Ms. Iseri-Carvalho: Or just ask the County Attorney if he refused. He is here.

Chair Furfaro: Any more for Shay? If not, thank you.

Ms. Iseri-Carvalho: Thank you.

Chair Furfaro: Right now we are going to take a five (5) minute tape change.

There being no objections, the meeting was recessed at 2:24 p.m.

The meeting reconvened at 2:29 p.m., and proceeded as follows:

Chair Furfaro: We are back from recess. Members, for C 2013-183, I am going to ask that we move that to the end of the agenda because we will need to get the amount clarified when we enter into conversations with the attorney, and then we have to come back out to vote. Can I have a mutual agreement we will move this to the end. Very good. Now you can get Mr. Bynum. We are moving on to the Claim.

(Mr. Bynum was noted as present at 2:30 p.m.)

CLAIM:

C 2013-184 Communication (04/24/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Enterprise Rent-A-Car, for damages to its vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kagawa moved to refer C 2013-184 to the County Attorney's Office for disposition/report back to the Council, seconded by Mr. Rapozo, and unanimously carried.

COMMITTEE REPORTS:

HOUSING & TRANSPORTATION COMMITTEE:

A report (No. CR-HT 2013-03) submitted by the Housing & Transportation Committee, recommending that the following be that approve as amended fail:

“Resolution No. 2013-47, Draft 1 – RESOLUTION DETERMINING THE COUNTY OF KAUAI FUEL TAX RATE AND REPEALING RESOLUTION NO. 2004-06, DRAFT 2,”

Mr. Kagawa moved for approval of the report, seconded by Ms. Yukimura, and carried by 7:0:0 vote.

A report (No. CR-HT 2013-04) submitted by the Housing & Transportation Committee, recommending that the following be approved as amended:

“Bill No. 2480 A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES,”

Mr. Kagawa moved for approval of the report, seconded by Ms. Yukimura, and carried by 7:0:0 vote.

A report (No. CR-HT 2013-05) submitted by the Housing & Transportation Committee, recommending that the following be approved:

“Bill No. 2481 A BILL FOR AN ORDINANCE AMENDING SECTION 5-2.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO MOTOR VEHICLE CERTIFICATE OF OWNERSHIP AND REGISTRATION FEES,”

Mr. Kagawa moved for approval of the report, seconded by Ms. Yukimura, and carried by 7:0:0 vote.

A report (No. CR-HT 2013-06) submitted by the Housing & Transportation Committee, recommending that the following be approved:

“Bill No. 2482 A BILL FOR AN ORDINANCE AMENDING SECTION 5-2.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY MOTOR VEHICLE WEIGHT TAX,”

Mr. Kagawa moved for approval of the report, seconded by Ms. Yukimura, and carried by 7:0:0 vote.

A report (No. CR-HT 2013-07) submitted by the Housing & Transportation Committee, recommending that the following be that approve as amended fail:

“Bill No. 2484 A BILL FOR AN ORDINANCE AMENDING SECTION 5-1.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY FUEL TAX,”

Mr. Kagawa moved for approval of the report, seconded by Ms. Yukimura, and carried by 7:0:0 vote.

ENVIRONMENTAL SERVICES / PUBLIC SAFETY / COMMUNITY ASSISTANCE COMMITTEE:

A report (No. CR-EPC 2013-05) submitted by the Environmental Services / Public Safety / Community Assistance Committee, recommending that the following be failed:

“Bill No. 2479 A BILL FOR AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 21-9.2 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT,”

Mr. Kagawa moved for approval of the report, seconded by Mr. Rapozo, and carried by 7:0:0 vote.

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2013-14) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be received for the record:

“PWPR 2013-10 Communication (04/03/2013) from Committee Chair Kagawa, requesting the presence of the County Engineer and the Chief, Engineering Division, Department of Public Works, to provide an update on all County bridge projects, to include, but not be limited to, the Department’s plan to maintain the historic nature of historic bridges, nature of repairs/rehabilitation, and targeted completion dates,”

Ms. Yukimura moved for approval of the report, seconded by Mr. Rapozo, and carried by 7:0:0 vote.

A report (No. CR-PWPR 2013-15) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be approved as amended:

“Bill No. 2470 A BILL FOR AN ORDINANCE AMENDING SECTION 23-3.7 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CONCESSIONS AT SPOUTING HORN (*Parks and Recreation Improvement and Maintenance Revolving Fund*),”

Ms. Yukimura moved for approval of the report, seconded by Mr. Rapozo, and carried by 7:0:0 vote.

FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE:

A report (No. CR-FED 2013-09) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be approved:

“Bill No. 2474 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND

THE BEAUTIFICATION FUND (*General Fund – Department of Finance, General Liability Account – \$764,194.00*),”

Mr. Kagawa moved for approval of the report, seconded by Mr. Rapozo, and carried by 7:0:0 vote.

A report (No. CR-FED 2013-10) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be approved:

“Bill No. 2475 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE DEBT SERVICE FUND (*Debt Service Fund - \$2,100,000.00*),”

Mr. Kagawa moved for approval of the report, seconded by Mr. Rapozo, and carried by 7:0:0 vote.

A report (No. CR-FED 2013-11) submitted by the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee, recommending that the following be approved:

“Bill No. 2476 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GOLF FUND (*Golf Fund \$51,459.00*),”

Mr. Kagawa moved for approval of the report, seconded by Mr. Rapozo, and carried by 7:0:0 vote.

Chair Furfaro: I would like to make one (1) comment since we have Public Works people here. Please understand that the amounts you submit to us, there is no wiggle room. If you are giving us numbers, make certain that you have considered all of the contingencies. Thank you.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2013-06) submitted by the Committee of the Whole, recommending that the following be approved:

“Bill No. 2477 AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY AMENDING AN EXISTING BUDGET PROVISIO IN THE CAPITAL BUDGET RELATING TO PROJECTS FUNDED WITH COMMUNITY FACILITIES DISTRICT BONDS,”

Mr. Bynum moved for approval of the report, seconded by Ms. Yukimura, and carried by 7:0:0 vote.

A report (No. CR-COW 2013-07) submitted by the Committee of the Whole, recommending that the following be approved:

"Bill No. 2478 A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891, AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC,"

Mr. Bynum moved for approval of the report, seconded by Ms. Yukimura, and carried by 7:0:0 vote.

There being no objections, Resolution No. 2013-51 was taken out of the order.

RESOLUTIONS:

Resolution No. 2013-51 – RESOLUTION ESTABLISHING TEMPORARY CLOSURE OF THROUGH TRAFFIC AT 'Eiwa STREET, LIHU'E DISTRICT, COUNTY OF KAUAI: Mr. Bynum moved for adoption of Resolution No. 2013-51, seconded by Ms. Yukimura.

Chair Furfaro: Anyone in the audience who wishes to testify on this item? No? Is there anything needed from questions of the Engineering Department or the Buildings Department?

Ms. Yukimura: I have one (1) question.

Chair Furfaro: Okay. Doug, can you folks come up? Lyle, I think you should come up, too.

There being no objections, the rules were suspended.

DOUGLAS HAIGH, Chief of Buildings: Doug Haigh, Department of Public Works.

LYLE TABATA, Deputy County Engineer: Chair, members. Doug has prepared a presentation, which is an update of some of the information regarding this project. I would like to turn the floor over to him. Hopefully, he will clarify some of the previous questions that the members had.

Mr. Haigh: You should also have handouts.

Mr. Kagawa: Can I say something?

Chair Furfaro: Yes, go ahead.

Mr. Kagawa: Thank you, Mr. Chair. We discussed this item in my committee probably for an hour with a lot of questions and answers. I do

not want him to be redundant. If they have something new to share then share it, but if it is basically the same thing, then I do not see the reason why. We have a long agenda, like you said. Let us call for the question, if not. Thank you.

Chair Furfaro:

Okay. What portion of your presentation is...

Mr. Haigh: There is some repetition so I will just go through this very quickly. I will go directly to some of the questions that were raised in your April 10th letter, and respond to those questions.

Chair Furfaro: Let us not have the redundancy of going through the same pieces but if you have questions unanswered, let us answer those first.

Mr. Haigh: Okay. This is a slide showing how it is going to be, so if you want to go back to that, we can. There were some questions during the presentation last time about the parking situation. During the construction of the Līhu'e Civic Center Site Americans with Disabilities Act (ADA) improvements, we anticipate losing about seventy (70) spaces at one (1) time. That is the worst case scenario. We are going to try it to manage it so it is less. We are anticipating picking up approximately sixty (60) to sixty-five (65) spaces from the closure, which is coming from the closure of 'Eiwa Street. Then, we are going to do additional striping in the Civic Center parking lot and this will be primarily near the former Big Save loading dock area to be picking up more (inaudible). We did do public outreach and met with the Board of Kaua'i Museum at the Līhu'e Development Plan Kickoff Meeting. There was a booth and some outreach to the public that was attending that special meeting. We did have a presentation at the Līhu'e Business Association. The primary concern is about congestion at the Rice/'Umi Street intersection and then people using 'Eiwa Street as a shortcut. There were a lot of comments about the bigger picture of what is going on in the Līhu'e Civic Center. There seemed to be willingness that it was appropriate on a temporary basis to try and see how it goes. It appeared that the biggest concern we got was the Rice and 'Umi Street intersection. That was the main concern. There may be more left turn activity with 'Eiwa closed because everybody who would turn left at 'Eiwa will not be turning left at 'Umi. That was the main concern. There was also a question about how to manage traffic calming in front of the Historic County Building because now the driveway in front of the Historic County Building parking lot area will tend to be used more because this will be one (1) of the ways—if you are planning on 'Eiwa Street and enter 'Eiwa street and you cannot exit onto Rice, that you can get to Rice. I currently use this many times. I am heading from the Civic Center towards *makai*, I will use this driveway to get to 'Umi Street so I can have a safe left turn onto. I do know that it is a good, safe way to get to 'Umi to get a safe left turn onto Rice Street. We could use temporary speed bumps, but we would really like to look at a traffic calming device and kind of restriping and creating a necking in the middle there by the Historic County Building. Not only are we using traffic calming so slow people down driving through there, but we are also going to enhance the entrance to the Historic County Building. That is the solution we are looking at and would like to approve upon as part of the project. Thank you. Is that brief enough?

Chair Furfaro:

Yes.

Mr. Haigh:

I appreciate brevity myself.

Chair Furfaro:

Tell me about your left turn again?

Mr. Haigh: Okay. When I need to go from the Civic Center to Nāwiliwili or the police station, I will go in the driveway because I will be coming from the Mōīkeha and Pi‘ikoi Building and I will go through the driveway in front of the Historic County Building parking lot, turn right on ‘Umi, and I have a traffic light which allows me to turn left safely onto Rice. That is what I do to avoid that ‘Eiwa/Rice intersection. I do not like to turn left at the ‘Eiwa/Rice intersection because there is a lot going on in that area with the gas station and everything. Actually, I had a roommate of mine who got into a traffic accident many years ago.

Chair Furfaro: Have you ever spent much time in Kīhei, Maui?

Mr. Haigh: I spent six (6) months there about twenty-five (25) years ago working on a project, but it does not look anything like it did when I was there.

Chair Furfaro: That town has a nickname now; “The Town of No Left Hand Turns.” I am serious. You have to go all the way back to the freeway to go up because you cannot make a left turn anywhere along Kīhei.

Ms. Yukimura: I have a question.

Chair Furfaro: Go ahead.

Ms. Yukimura: This project is being done in relation to the Hardy Street improvements as well?

Mr. Haigh: No.

Ms. Yukimura: It is totally separate?

Mr. Haigh: It is totally separate and in fact, the six (6) month period of temporary closure will most likely terminate—will be done before we actually start construction on Hardy. Before we start construction on Hardy, we will need a comprehensive traffic plan and we may very much need to have ‘Eiwa open as part of that temporary traffic plan until we complete the improvements for Hardy Street. This is associated with the Līhu‘e Civic Center ADA Site Improvements project where we are going to be redoing the parking lot in front of the Mōīkeha/Pi‘ikoi Building on the Rice Street side of the Līhu‘e Civic Center.

Ms. Yukimura: Okay. Thank you.

Mr. Kagawa: Looking at that map up there, my concern is the same as yours about the ‘Eiwa Street. If we close that there will be a ton of cars trying to turn left here on ‘Umi. The traffic in the afternoon and in the morning is horrible. Horrible. This road is also, as it has been for years, is horrible; the main highway. Rice Street—I am looking at Rice Street there. We are planning to, in conjunction with this closure of ‘Eiwa, Rice Street will be made two (2) lanes instead of four (4)?

Mr. Haigh: No. There are no changes to Rice Street during the temporary closure.

Mr. Kagawa: Rice Street will remain four (4) lanes?

Mr. Haigh: Yes, four (4) lanes duration this temporary closure.

Mr. Kagawa: But, later on we are looking at...

Mr. Haigh: That is a separate project that will have to come before this Council in the future. That is being planned, but it is a separate project and it will definitely be coming before this group.

Mr. Kagawa: Okay. If we are not voting on that one, then Rice Street is irrelevant for now. We did actual counts here?

Mr. Haigh: Yes, we did traffic counts and maybe Lyle knows exactly where the counts were. I forgot.

Mr. Kagawa: How many vehicles a day turn left here?

Mr. Tabata: I do not have that data with me; however, I want to remind you all that this is a temporary closure to identify data that we need. I just wanted to clarify that. We took preliminary counts but I do not have the data with me and with the closure, we will be taking counts again at the same locations; Rice Street, Hardy Street, and Umi Street.

Mr. Hooser: I have two (2) questions. What is the cost of this activity?

Mr. Haigh: The cost of this temporary closure?

Mr. Hooser: Yes and to restripe.

Mr. Haigh: It will be done with County forces striping. We have not done a cost analysis of how many exact hours, but it will be under general funded workers and then the cost of paint.

Mr. Hooser: So it is not a specific budgeted item?

Mr. Haigh: No

Mr. Hooser: Okay. For the improvement in front of the Historic County Building, do you envision a calming device? Has that been vetted by the Historical people?

Mr. Haigh: No, we are at the very preliminary stages.

Mr. Hooser: Okay. Thank you.

Mr. Haigh: Again, it would be a temporary—well, that could stay if it turns out that is nice.

Mr. Hooser: The temporary Kapa'a Bypass has been there for a while.

Mr. Haigh: Thank you, that is absolutely appropriate
(inaudible)...

Mr. Hooser: Yes, because it may change the view planes of
the other County buildings and stuff like that.

Mr. Haigh: Basically, it is striping in front of there. We
are showing a couple of planters, so it is minimal impact to the actual building.

Mr. Rapozo: There is a good possibility that this road will
be closed permanently.

Mr. Haigh: Eventually, yes.

Mr. Rapozo: Is that not the plan though?

Mr. Haigh: There are those of us who see that as an
improvement to the Civic Center, and it is part of the master plan. It had been
deferred to the end of the master plan. We are looking at moving it up in the master
plan. This temporary closure, with the traffic counts we are getting, we will be able
to see the impact of the traffic. It will help us to much better evaluate whether or
not the permanent closure is appropriate now or do we really need to wait until
further improvements are done in the Lihu'e area to the traffic flow. I will be
honest; it is a goal of ours in the planning of the Civic Center, which is to look at
moving this forward if we can. At this point, we are only asking for approval for a
temporary closure. If you approve this today, we will remove it in six (6) months.

Mr. Rapozo: But your traffic counts are going to be taken
on Rice Street with four (4) lanes?

Mr. Haigh: That is correct.

Mr. Rapozo: Rice Street is not going to be four (4) lanes?

Mr. Haigh: That is another project that is going to be
coming before you. We are certainly going to be taking traffic counts before and
after the conversion of Rice Street from four (4) lanes to two (2) lanes because we
have the four (4) lane numbers already.

Mr. Rapozo: Right, but you are going to be taking counts
on an environment that is not going to be there, should this road be closed
permanently. The other problem is that yesterday I met with Economic
Development and apparently, there is a strong push to put that meat processing
facility over there. I do not want to get into that discussion here, but they did not
have answers for me as far as traffic. That is a concern because you cannot close
'Eiwa and have that facility there. You cannot do it in my opinion. You cannot.
Maybe people disagree, but that is not going to work. It is going to be a problem
without that facility there, just because of the restriction of lanes and travel.
Imagine you drop a—what I call a light industrial operation in there, I just do not
think it is going to happen, so I am just having a rough time. Thank you.

Chair Furfaro: Let me ask you something, Doug. I want to
know if you are aware of the fact that the Historical Society is considering a move to
the Salvation Army building?

Mr. Haigh: I have heard that, yes.

Chair Furfaro: With the museum, how many stalls are we committed to?

Mr. Haigh: I forget the exact count. Right now, we are providing stalls from here to about here for the museum. If you look behind you, I think it is about fifteen (15) stalls. I forget exactly, maybe eighteen (18).

Chair Furfaro: That is in their arrangement with us as a tenant?

Mr. Haigh: I do not think there is any formal agreement.

Chair Furfaro: No, there is.

Mr. Haigh: For the museum?

Chair Furfaro: The new parking stalls, yes.

Mr. Haigh: I was not aware of it.

Chair Furfaro: I was a Trustee for the Museum, so I will tell you that there is an agreement. How many that is, I thought it was as few as nine (9) and then it was negotiated upwards. If you could find out, it would be important information to have. This is for a temporary evaluation. You are saying six (6) months but after three (3) months, if it is not working or it has become too big of an issue to manage; would you end it earlier?

Mr. Haigh: I, of course, defer to my bosses but we would certainly have the capabilities to remove it at any time.

Chair Furfaro: So you have the capability?

Mr. Haigh: Yes.

Chair Furfaro: That is important for my vote if it is a test situation.

Mr. Haigh: Basically, what we are doing is putting temporary barricades here and striping these stalls. If we decide that it is not working, we could simply remove these barriers here and restrict these stalls or maybe restripe them at a diagonal and have less stalls, but...

Chair Furfaro: I guess the less stalls would be tied to fact that I hope there is some discussion and at least that is what I have been told. I just work here part time, but they told me we are working on a car pool location for the County vehicles. I sure hope that is not it because when I asked the question, "What areas are you talking about?" nobody seems to give me an answer. Like I said, I just work here. Have you heard this plan?

Mr. Haigh: I have not heard about a carpool but I have heard discussions in the past of one (1) of our solutions to parking in the Civic

Center—because periodically, once in a while, every once in a while we get awareness that all of a sudden we have not enough parking spaces. One of the potential solutions is to relocate all of the County cars somewhere else so that County workers who use County cars during the day would go somewhere else first, and leave their personal car there. The Convention Hall has been one (1) area as a possibility or Vidinha Stadium as well.

Chair Furfaro: I am glad what I am holding onto today is temporary because I have just given you a bunch of things to throw into the mix before you know what flavor of pancakes you have here. I hope it does not fall flat.

Mr. Bynum: My understanding is that if you are contemplating reducing four (4) lanes to two (2), you need to get traffic counts of four (4) lanes to see what the volume is to make sure it is appropriate.

Mr. Haigh: For the traffic counts we have done for this will also apply for that because we have done traffic counts on Rice Street, so we have the four (4) lane count.

Mr. Bynum: In terms of food hub, that is a different issue but it is my understanding that the Civic Center plan contemplated there still being a grocery store there. There were provisions to bring in larger trucks even after the closing of 'Eiwa. Is that correct?

Mr. Haigh: That is correct. The master plan—the design of the parking lot was looking at actually coming through this area, would then become a main entrance to 'Umi Street and it would be designed to allow truck access with turning radiuses to get into the loading dock area.

Mr. Bynum: Regarding the left turn, it is my practice to leave this lot and go in front of the County Building for the same reason you said. I will never make a left turn off 'Eiwa Street. I think it is dangerous, plus you could sit there fifteen (15) minutes, and I am not exaggerating; however, with my experience of making left turns, 'Umi Street does not have a lot of traffic coming this way so I think some additional left turns is not going to be that big of a problem. I hope that the left turns out of 'Eiwa never come back. I agree with Mr. Rosa about that. I think that is something we should have done a long time ago. I am prepared to support this because I want to see these ADA improvements. I want to see the Hardy Street improvements, and I believe in the end, we will have a safer more functional movement of traffic around here. Thank you.

Chair Furfaro: The key word in that for ADA is "improvement." If traffic does not move, first and foremost, it is not an improvement. I will give you my tentative support today but I want to make sure that you understand that I certainly reserve my final decision after you have gotten the information back to us. Are there any more questions for these gentlemen? We have a 3:00 p.m. attorney's meeting here. I would like to say at this point, is there anyone who wants to talk on this item in the back? Mr. Rosa, please come up.

Mr. Rosa: Good afternoon, members of the Council. For the record, Joe Rosa. Jay, I know we did not have our meeting yet and it has to do with this Rice and 'Eiwa Street intersection thing. What I have to say on the plan that I submitted—a lot of these problems...I do not know where this idea coming in about 'Eiwa Street closing. It is only for a few select people who want to close 'Eiwa

Street. What it is going to do is if they close 'Eiwa Street and when I come to a Council Meeting now, I have to go all the way to 'Umi Street and come in. You are going to create a bottle neck in that 'Umi Street intersection over there. 'Umi and Hardy is going to be a bottleneck. Kaua'i has too many one (1) way in and one (1) way out roads. This is what is going to fall down too. I am glad to see Mr. Tim Bynum see what I mentioned about the left turns. (Inaudible) on 'Eiwa Street like a (inaudible) and put an extra arrow on the signal light on 'Umi Street there and send it up to 'Umi Street. Those are the kind of things that I do not know where Doug Haigh gets his ideas or Lyle Tabata who is a mechanical engineer, trying to do civil engineering work. Let us be realistic. You are paying big bucks to people who do not have this kind of foresight. I have travel Rice Street, I travel Līhu'e town nearly eight (8) hours a day. I am retired. I see the traffic in the morning from the school. I see the lunch traffic. I see the *pau hana* traffic. I know what it is. These guys sit in the air condition office. They do not know what it is. A mechanical engineer is not suitable to do civil engineering work. The persons are not qualified and yet, he is hired to be a deputy. Jay, that is why the plan that I submitted and if you looked at it, you would understand that I had something more direct. That (inaudible) that they have for the County Building, move it down to Kele Street. It would serve the County and the public better because you can provide the crosswalks for the County worker to get to the post office, bank, and here after. There is no crosswalk now, unless you come up to the 'Eiwa and Rice Street intersection. Those are the kinds of things that I put in my plan and these so called expert, high paid engineers are not doing.

Chair Furfaro:
have people with...

Joe, I think you need to recognize that we

Mr. Rosa:

But Jay...

Chair Furfaro:
in this County who work very hard.

No, you need to recognize that we have people

Mr. Rosa:

I understand that.

Chair Furfaro: We have some who do not work as hard as others, but today alone, I have to caution you, if you are implying these things, they are not necessary. They are not necessary. Now on your plan, I looked it and I still plan to meet with you, but what you just said earlier that you have to go down (inaudible). With this plan on a temporary basis, you can still come in 'Eiwa Street and you can still get to the Council. This is a temporary situation that, "Are we willing to let us measure it?" I do have your plan but with everything else going on right now in the world of the Līhu'e administration, I just have not had time to get together with you. The vote today is for "temporary." You can still get to the Council in the temporary break.

Mr. Rosa: Right. Like I was saying Jay, the thing is from what I hear, they expect everything. The way it is mentioned, it is "temporary." One (1) of the things with the County is when it is temporary, it becomes permanent. That is the kind of thing. It is temporary but are they going to change it to back the way it was or is it going to be permanent like the County has always been on that (inaudible).

Chair Furfaro: Not only the County, I think the State has their own (inaudible) too. If you go down to Waikoko, the original bridge that failed

in the 1957 tidal wave is still on a forty-five (45) degree angle, and all they did was fill it up to make it level again, but it is still the 1957 bridge.

Mr. Rosa: In that case, they were going to do Waipā and Waikoko.

Chair Furfaro: I used that as an example that a lot of temporary things stay permanent. Your point is well taken. I caution you when people are trying to do the best that they can, it is important that we understand that they are offering us an option, and this one (1) is an option that is a temporary trial period.

Mr. Rosa: I understand that, Jay. This is something that you asked for public information too, so I am trying to give my side of it because I have done designing...

Mr. Rosa: Joe, I respect you for that. I am only asking you not to come up and feel you need to give the shortcomings to the people that are trying to be part of the solution. That is all. I understand and I will plan to meet with you on your plan. I understand what you are trying to say to us. I went to hotel school. I did not go to any kind of maintenance or engineering school.

Mr. Rosa: I congratulate you, Jay, because I was one (1) of those. I learned by way of experience and trying to learn and better myself. Exactly what you did. I look at people like that who come up from the ranks because they have proven themselves.

Chair Furfaro: We appreciate your testimony and your history, and we will meet but you still have to get out of hotel school to run a hotel.

Mr. Rosa: Yes, I know. Like I say, that 'Eiwa Street—they even talk about a meat processing center in town? Is it going to be like the Chicago stock yards? That is what I mean with these kinds of things that they talk about but they have to be realistic to the facts.

Chair Furfaro: I think we got clarification. What they are proposing is not a stock yard. It is not where they slaughter the cattle. It is not a stock yard.

Mr. Rosa: Two (2) weeks ago we heard about it and now this afternoon Mr. Bynum addressed that they are going (inaudible) and Mr. Haigh said there is no change as far as he knows. They are contradicting items over here. Which way are you going to believe? They have to be realistic to the fact that, "Hey, you concentrate on one (1) thing at a time." They are talking about bringing consultants that are going to put twelve (12) foot wide sidewalks and bikeways. Naturally they are going to get back to two (2) lanes. My plan would be that if you want to put bike lanes, put them on Hardy Street. That is not the main thoroughfare. This is a main thoroughfare and you keep it the way it is so in case of emergencies, you have wider lanes so people and traffic can move. They do not see those kinds of things. It is only now. I would like to say the local kind of thing, not metropolis consultants who come in with those kinds of ideas.

Chair Furfaro: Joe, that was your time.

Mr. Rosa: Anyway, I am glad that I have the chance to come and express things. I know how Līhu'e was and I would like to see it stay the way it is, not with some fancy kinds of things like this here. I keep emphasizing, Jay, that we need alternate lanes out of Līhu'e and with a bridge coming into Līhu'e to (inaudible). That would solve a lot of the problems that we have with traffic.

Chair Furfaro: Well said, Joe. Thank you very much. Anyone else who wishes to speak on this item? Come up, Glenn.

Mr. Mickens: Thank you, for the record, Glenn Mickens. Jay, I just have a question. I had a short, short testimony on Resolution 2013-54, but you are going to go into Executive Session. Do you know how long you will be there? I would like to just say my couple of words, if it is permissible to you.

Chair Furfaro: Is it on an item that is not being discussed right now? It is 2013 what?

Mr. Mickens: Yours was item 2. This is item 5.

Chair Furfaro: Let me ask you, do you keep track of how many times I make an exception for you?

Mr. Mickens: Yes, a lot.

Chair Furfaro: Okay. Put this one (1) down because I am going to make an exception. We are not going to entertain any questions.

Mr. Mickens: Thank you, I appreciate that.

Chair Furfaro: Go ahead.

Mr. Mickens: It is regarding the stop signs on 'Olohena. I have the map here. I am sure you got a copy of it too. They are proposing coming up 'Olohena to put a stop sign there. I think that will be disastrous. Coming up that hill to backed up traffic down the hill. I have used 'Olohena road for a number of years. You have to go there going by the Middle School. You have got a stop sign going eastbound already, which is fine on Ka'apuni road there. That is okay. They wanted to put the other proposed stop sign item on 'Olohena going westbound. I just think that would be a complete wrongdoing. When you come there, the cars are flowing. I have never seen an accident or any reason to block up that intersection. Anyway, I just wanted to express my dissatisfaction. Is this a done deal? Are they going to do this or is this proposed?

Chair Furfaro: I am really breaching process here, and you of all people who have filed complaints against my process should know that.

Mr. Mickens: Right.

Chair Furfaro: I have taken your testimony and I cannot answer until we get to that item.

Mr. Mickens: Okay. Thank you.

Chair Furfaro: Is there anyone else that would want to testify on the item regarding the temporary closure on 'Eiwa Street? If not, I will call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Mr. Kagawa: Thank you, Mr. Chair. I will be voting no on this Resolution to close 'Eiwa Street. I greatly appreciate Lyle and the Public Works team. You guys are trying to solve a problem of a lack of parking at the Civic Center. It is a good plan and I am not voting no because you are not capable or this is not a good plan. It is a good plan to address parking; however, I do not want Kaua'i to become the next Honolulu. I hate going to Honolulu. I love the food. I have a lot of friends there, but I hate the snarling traffic. Lihu'e is the hub of Kaua'i. Right here, this is our big city. We would be closing a main artery, and this artery is already highly used. Rice Street is at times just snarling. We have widened lanes, big bucks; State, Federal moneys—widened the highways coming in from Puhi, all the way through town, up to Rice Street. We have widened airport roads, and there has been construction there for a year or so, widening lanes, allowing traffic to flow. Now, we are going to say, "We are going to try this and see how it goes." If it is snarling already and you close a main artery, I can tell you the answer. It is going to be bad. We, as the Council, are going to get blamed when that snarling traffic hits us for six (6) months. I urge you to consider my thoughts. This is not an area where we want to be like Honolulu. Thank you.

Ms. Yukimura: I am going to be voting for this because I believe it is part of a plan for the urban Lihu'e town, an urban core plan. It is temporary, so we can gather data and see how it works or does not work. This is the town center as Councilmember Kagawa has pointed out. I think we are looking for a way that we do not become like Honolulu, but we become the Kaua'i that still retains our character, but improves things for safety, traffic flow, and operations of the town. I think this is a chance to see if we can move in that direction, but we are doing it sort of gradually to test it and to gather data. I think it is worth a try.

Mr. Rapozo: Thank you, Mr. Chair. I am not going to be supporting the Resolution. This discussion goes back many years, again. I do not think it is wise to do things by trial and error. I think we have the capability to do traffic counts. We have the capability to do assessments without having to put our residents at any more inconvenience with the work being done at Kapule and coming off of that; that causes an issue with traffic itself in the mornings and afternoons. To close 'Eiwa, I agree with Mr. Kagawa that it is just going to cause some major, major traffic issues. Again, it is not just this little issue in itself, it is the bigger picture. What are the Administration's plans for that area? They are not sure. They want to put the facility in the old Big Save and that is going to of course generate heavy traffic. I am not going to be supporting the Resolution. Thank you.

The motion to adopt Resolution No. 2013-51 was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Nakamura, Yukimura,	
	Furfaro	TOTAL – 5,
AGAINST ADOPTION:	Kagawa, Rapozo	TOTAL – 2,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: I want to say that my "aye" is a temporary measure to have good data available. On that item, may I ask the County Attorney to come up, please?

There being no objections, the rules were suspended.

There being no objections, ES-631 and ES-632 was taken out of the order.

EXECUTIVE SESSION:

ALFRED B. CASTILLO, JR., County Attorney: Council Chair,
Councilmembers, good afternoon. Al Castillo, County Attorney

Chair Furfaro: Al, before you go any further, there are two (2) Executive Session items that actually have coordination with attorneys and conference calls.

Mr. Castillo: Okay.

Chair Furfaro: I would only like to read those two (2).

Mr. Castillo: I guess you want me to read ES-632 and ES-631?

Chair Furfaro: Yes, that looks correct.

Mr. Castillo: Okay. I will read both matters for your consideration.

ES-631 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council, to consult with Special Counsel relating to the investigation of personnel matters involving the Office of the County Auditor and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-632 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kauai County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing as it relates to Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Chair Furfaro: As my practice, we will do a roll call to go into Executive Session, but separately because on one (1) item, there will only be six (6) votes.

The meeting was called back to order, and proceeded as follows:

Mr. Kagawa moved to convene into Executive Session for ES-631, seconded by Ms. Yukimura, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Hooser, Kagawa, Nakamura, Rapoza, Yukimura, Furfaro	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Kagawa moved to convene into Executive Session for ES-632, seconded by Ms. Yukimura, and carried by the following vote:

FOR EXECUTIVE SESSION:	Hooser, Kagawa, Nakamura, Rapoza, Yukimura, Furfaro	TOTAL – 6,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Bynum	TOTAL – 1.

Chair Furfaro: Thank you. Members, I would like to let you know that Attorney Katz is expecting our call. I would like you to go directly into Executive Session.

There being no objections, the meeting was recessed at 3:13 p.m.

The meeting was reconvened at 5:29 p.m., and proceeded as follows:

Mr. Bynum was noted as recused from the meeting at 5:30 p.m.

Chair Furfaro: We are back from our Executive Sessions. The first item that we need to take action on is an approval for additional funds for Mr. Katz's firm. Shay, just to let you know that we did confirm with him that that request was only for twenty-five thousand dollars (\$25,000) at this point.

COMMUNICATIONS:

C 2013-183 Communication (05/02/2013) from the County Attorney, requesting Council approval to expend up to \$75,000 for Special Counsel's continued services provided for Defendant Shaylene-Iseri Carvalho in Tim Bynum vs. County of Kauai, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters: Mr. Kagawa moved to approve to expend the amount up to \$25,000 for C 2013-183, seconded by Mr. Rapoza.

Chair Furfaro: Now I will take dialogue.

Ms. Yukimura: Just to clarify, although you have already said it, it is a motion to approve twenty-five thousand dollars (\$25,000) because agenda item says seventy-five thousand dollars (\$75,000). Thank you.

Chair Furfaro: Okay. That was clarified in our conference with Mr. Katz. Any other discussion? Yes, go right ahead.

Mr. Kagawa: Without going into details about the case, my stance on this item has not changed. I would still like to see this case go the full cycle. I believe that this is such a unique case, involving a colleague of ours, on the Council, and I believe the truth needs to be told either way. Let us let the Court do its job and let the law prevail as it was designed. Thank you.

Chair Furfaro: If there is no further discussion, I am going to ask for a roll call vote, please. May I have a roll call vote to approve twenty-five thousand dollars (\$25,000) for the law firm of Mr. Katz to continue representation for our previous Prosecutor.

The motion to approve C 2013-183 to expend the amount up to \$25,000 was then put, and carried by the following vote:

FOR APPROVAL:	Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Bynum	TOTAL – 1.

Chair Furfaro: That will complete that portion of business for today. I wanted to get the bus people back. Were we able to call someone?

Ms. Yukimura: She is on her way.

Mr. Bynum was noted as present at 5:38 p.m.

Chair Furfaro: Okay. Let us move around other items on the agenda and come back to the bus and fuel tax.

There being no objections, Resolution No. 2013-52 was taken out of the order.

RESOLUTIONS:

Resolution No. 2013-52 – RESOLUTION REPEALING AN EXISTING CROSSWALK ON PO'IPU ROAD FRONTING KOLOA ELEMENTARY SCHOOL, KOLOA DISTRICT, COUNTY OF KAUAI: Mr. Kagawa moved for adoption of Resolution No. 2013-52, seconded by Mr. Rapozo.

Chair Furfaro: Is there any discussion?

Mr. Kagawa: Yes, Mr. Chair.

Chair Furfaro: Go ahead.

Mr. Kagawa: I believe the next item actually installs a better alternative. I believe that is why we are repealing the crosswalk. It is actually to do a better crosswalk with a better flashing and warning system. Thank you.

Ms. Yukimura: Just so the public knows, this is part of the "Safe Routes to School Project," and Public Works people were here earlier, but they have been working closely with the Kōloa Elementary School. This Resolution and the one to come will improve the safety for the schoolchildren. It is a good thing.

Mr. Bynum: I noticed the other day in the parking lot by Sears, between Sears and Kmart, they put up a similar user-activated light and I am happy to see that here. It is something that I believe we are putting at Kawaihau Road for a crossing soon and there is a few other places on main highway that could be a really good advantage. This is good. Thank you.

Chair Furfaro: This is for Resolution No. 2013-52, correct? No further discussion. Did you gentlemen come over to testify on this? We have no questions, but if you wanted to testify, now is the time to do it.

Mr. Tabata: We have a presentation.

Chair Furfaro: I am not sure we need the presentation. I think we got a description of the walk at Walmart and the value of it at Kōloa. I think we are fine. I would like to ask you if it is different than the presentation you made in the committee when you first talked about Safe Routes to School?

Mr. Tabata: Yes. Lyle Tabata, Deputy County Engineer, for the record.

Chair Furfaro: First of all, let me tell you, Lyle...

Mr. Tabata: Is this the repeal?

Chair Furfaro: Yes, Resolution No. 2013-52.

Mr. Tabata: Okay, so we do not have a presentation on the repeal, but for the reestablishment of a new—we have some information.

Chair Furfaro: Let me give the options. You can sit there right now while we continue our business and then we will get to that next.

Mr. Tabata: Okay. Thank you.

Chair Furfaro: The Chairman likes stuff to be done whether it comes up in a resolution or not in committees, and I assumed this was covered in Safe Routes to School. Let us get this voted on, please.

The motion to adopt Resolution No. 2013-52 was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

There being no objections, Resolution No. 2013-53 was taken out of the order.

Resolution No. 2013-53 – RESOLUTION ESTABLISHING A RAPID FLASHING LIGHTING SYSTEM CROSSWALK AND AN IN-ROAD WARNING LIGHTING SYSTEM CROSSWALK ON PO'IPU ROAD IN THE VICINITY OF KOLOA ELEMENTARY SCHOOL, KOLOA DISTRICT, COUNTY OF KAUAI. Mr. Kagawa moved for adoption of Resolution No. 2013-53, seconded by Ms. Yukimura.

There being no objections, the rules were suspended:

Mr. Tabata: Good evening, Council Chair, Vice Chair, and members. Lyle Tabata, Deputy County Engineer. Today, we wanted to complete our presentation, which also in particular, we wanted to focus on the traffic pattern change at the intersection of Po'ipū Road and Waikomo Road. Lee Steinmetz here, our Transportation Planner, will do the presentation.

LEE STEINMETZ, Transportation Planner: Thank you, Lyle. I am Lee Steinmetz, the Transportation Planner. I think the crosswalks are fairly obvious in the Resolution, but I just wanted to point out item No. 4 in the Resolution, a change at this intersection. This is just for your preference. This is the intersection that we are talking about. We just wanted to make sure that you understood a change in the Resolution. Right now, if you look at the intersection on both of these legs, they are both two (2) way legs going in and out of Waikomo Road, which is really not the best approach and it can be kind of dangerous. As part of this, we are changing this intersection to have one (1) going out and one (1) lane being in. You will be able to make left turns from Po'ipū Road onto Waikomo Road, and you will also be able to make a left turn off of Waikomo Road onto Po'ipū Road with this new configuration. We are not really restricting any movement, but we are just making it a safer intersection. We just wanted to make sure that you were aware of that as part of this Resolution. Thank you.

Chair Furfaro: Can you go back to the first slide? I just want to see how you shaved the turn to provide that entrance from the southbound lane.

Mr. Steinmetz: Sure. So that is the current...

Chair Furfaro: You shaved that corner? What are you going to do? Fill it in?

Mr. Steinmetz: Basically, right now for an initial thing, we are using wheel stops which is similar to what was used at the Po'ipū Road bypass road intersection. We will be able to create a curb—we are essentially creating a curb to narrow that. That will be our condition and then that will become a planting area that can be continued to be landscaped.

Chair Furfaro: That is going to be done in house?

Mr. Steinmetz: Yes.

Chair Furfaro: Thank you. Mr. Kagawa.

Mr. Kagawa: Thank you for your presentation. Have you run this through the Kōloa Community Board Association or the Po'ipū Beach Resort Association?

Mr. Tabata: This was part of the Mayor's community outreach. We presented it at the community meeting and we had numerous constituents come up and look at the plan and agree with it. The one (1) thing that the community did ask us was to evaluate the status of the Norfolk Pine Tree; hence we have had our parks help us with that. George Ahlgren, who is an Arborist, did an evaluation for us so we are in the process of contracting out the removal of that tree because it has been found to be very dangerous at that time.

Mr. Kagawa: The tree shaded in green?

- Mr. Tabata: Yes.
- Mr. Kagawa: We are going to remove that?
- Mr. Tabata: The community brought that to our attention
and we had an analysis.
- Mr. Kagawa: The concern was a blocked line of sight?
- Mr. Tabata: No, the concern was that it would fall.
- Mr. Kagawa: That it would fall?
- Mr. Tabata: Yes. We found that yes, it is—and we are
moving towards the removal.
- Chair Furfaro: We found termites in it?
- Mr. Tabata: Not termites, but that it is stressed. The tree
is very stressed.
- Mr. Kagawa: A stressed tree.
- Mr. Tabata: Yes.
- Mr. Kagawa: I have a follow up. By changing it to one (1)
lane, that will obviously give us more space on each side?
- Mr. Tabata: Right, and also improve the sight distance. In
addition, that section to the right, we are working on a resolution to come to you that
is hashed out of Waikomo Road. We wanted to use a test case to provide a
pedestrian facility on Waikomo Road as part of our Safe Routes to School initiative,
to bring the children who come from the subdivision at—that live down by Waikomo
and the area from the origination of the Big Save store and the First Hawaiian
Bank, to have route to get to school.
- Mr. Kagawa: I think that is a good idea, as long as the
community supports it. In my few times that I get to spin down there, I see a lot of
health conscientious people walking and riding bikes, even down in Po'ipū.
- Mr. Tabata: The drawings were shown to the community
at the outreach meeting and we had a tremendous outpouring of support.
- Mr. Kagawa: Thank you.
- Chair Furfaro: Excuse me, Lyle. I did not quite understand.
A test product for the sidewalk?
- Mr. Tabata: For the pedestrian path, yes.
- Chair Furfaro: A test product. What is the product?
- Mr. Tabata: A test—it is a pilot project. I am sorry.

Chair Furfaro: Okay. It is not a tile that is a test tile, right?

Mr. Tabata: No. We are just striping part of the lane of the road and we will out extra signage.

Chair Furfaro: Okay. I got it. Thank you.

Ms. Yukimura: I just want to commend you and the Administration for doing this kind of really good dialogue with the community; one (1), to make things safer and get input, but also how great that you also identified a hazard in the tree before anything happened.

Mr. Tabata: Thank you.

Ms. Yukimura: Good work. Thank you.

Chair Furfaro: Okay. Any further questions for the team there? None? Gentlemen, thank you very much. Discussion members? If not, roll call on this Resolution please.

The meeting was called back to order, and proceeded as follows:

The motion for adoption of Resolution No. 2013-53 was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Thank you, gentlemen. I would like to go back, since I see Celia is here with her family.

Mr. Kagawa: Mr. Chair, so that we can release Lyle, can we do the next item and refer it to my committee? I have some concerns and questions.

Chair Furfaro: Okay. Let us go ahead and call for that one and have a quick discussion.

There being no objections, Resolution No. 2013-54 was taken out of the order.

Resolution No. 2013-54 – RESOLUTION ESTABLISHING STOP SIGNS AND STOP LINES ON OLOHENA ROAD AT ITS INTERSECTION WITH KA'APUNI ROAD, KAWAIHAU DISTRICT, COUNTY OF KAUAI: Mr. Kagawa moved to refer Resolution No. 2013-54 to the Public Works / Parks & Recreation Committee, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: Lyle, you will get that communicated to public Works, right?

Mr. Tabata: Yes.

Mr. Kagawa: Mr. Chair, I do not need them really present, but if we could have the Police Department communicate in writing as to what is their position. I believe that they were going to say it will make that intersection safer.

Chair Furfaro: Okay. That will be in committee next week and we will send a communication to the Police Department as well. On that note, we can let Lyle go now. Thank you. Let us go to the fuel tax, since Celia is here.

Resolution No. 2013-47, Draft 2 – RESOLUTION DETERMINING THE COUNTY OF KAUAI FUEL TAX RATE AND REPEALING RESOLUTION NO. 2004-06, DRAFT 2: Mr. Bynum moved for adoption of Resolution No. 2013-47, Draft 1, seconded by Ms. Yukimura.

Chair Furfaro: Celia, are you here for testimony?

Ms. Yukimura: May I explain?

Chair Furfaro: Sure.

Ms. Yukimura: Thank you. There was a lot of discussion in committee about the lack of a plan to show how the proposed fuel tax increases would be used to expand, improve, and enhance the bus. With the Mayor's permission, Celia has shown us what she has already had in both her head and her files of how the moneys would be used. I would like to ask that you suspend the rules so that we could have her come forward to explain and answer questions.

Chair Furfaro: Sure. Rules are suspended.

There being no objections, the rules were suspended.

Ms. Yukimura: I want to thank Celia to do this off time while her young daughters are here. They are a good reminder of what our work is all about.

CELIA M. MAHIKOA, Executive on Transportation: I am Celia Mahikoa, Executive on Transportation of the County of Kaua'i Transportation Agency.

Ms. Yukimura: Thank you, Celia for being here. I passed out something that you sent me this afternoon, and I believe it shows some of the short term improvements that you would do if you had the money to do it. Can you run us through it quickly?

Ms. Mahikoa: Okay. Basically, what I have done is based on projected—if we had additional amounts available for the Transportation Agency Budget, I have projected three (3) years worth of what the additional funds would be invested in and improving the transit service on the island. It is broken into the three (3) applicable years. First would be Fiscal Year 14, considering a \$0.01 increase that would lead to approximately two hundred fifty thousand dollars (\$250,000) in funding. We are seeing what we are going to attempt to do is address the short term needs of our Agency for additional base yard space. We are going to attempt to locate a space in Lihu'e, an already existing one, that is County property; therefore, we will be able to address it much more quickly than completing the short

range transit plan and having that establish our satellite base yard plan. If we are able to accomplish that, we are projecting that we would be and to do so by Fall 2013, if all goes well. We do not anticipate that should cost us anything if we are able to work something out with existing facilities in Līhu'e. We would need to place a small structure there that would address the need for locking up supplies, the forms and everything else that is needed for bus drivers to check in and checkout, cleaning supplies, and other things. That is what the forty thousand dollars (\$40,000) line item is there. Once we are able to get additional space and get additional vehicles, which I am basing the mainline route expansion to address the peak commuter hours, that right now, is resulting in occasionally turn aways of passengers; which is our main goal is to address that need right now. We project that would cost about one hundred forty-two thousand dollars (\$142,000), in order to start up two (2) additional mainlines for that. In order to carry out many of these initiatives and future initiatives and primarily to carry out the short term transit plan, which will include a significant amount of community input, we will be going out and have community meetings in order to ensure that we are addressing the community's priorities in establishing the transit needs for each area. We would ask to have an additional member on our team to be able to ensure a quality product on this. They will also be responsible for implementing the plan, the transit improvements, that are brought out in the plan. That would take us through what we would be able to benefit from or the public would be able to benefit from in that first year. Of course, this is contingent upon getting the base yard space and getting those vehicles delivered. In looking at the following year, Fiscal Year 15, I believe it was proposed for \$0.02 increase, which means that would be a cumulative \$0.03 leading to seventy hundred fifty thousand dollars (\$750,000) in additional funding available. We would look at increasing the frequency of the Līhu'e shuttle and at the same time, looking at possible restructuring of the shuttle to make it more effective in the way it is serving the public in Līhu'e. We would purchase a transit vehicle, that is those larger capacity types of transit specific/transit industry vehicles. Those typically run about twice, as much as the ones that we are purchasing now; however, their useful lives are more than twice what our current vehicles are. We would also be looking at getting one (1) satellite base yard location established in that Fiscal Year. The cost that is showing there is also looking at seeing if we can do it at an established County facility, and if so, we would be just looking at making sure that it secured and that it have a small structure on there that could secure the needed items for driver check in and vehicle maintenance. For Fiscal Year 16, that would take it to a total of the \$0.04 increase because it is coming up one (1) additional cent there, which means that would be an estimated additional one million dollars (\$1,000,000) per year for the transit system. By then, we would have the short term transit plan, which would include the financial plan, taking us out to 2020. That would allow us to know exactly what needs our greatest attention. Right now, we look at ridership and see where the obvious demands are. As far as planning for, say, areas that are not served at the moment and truly have a need and priorities that is in the communities that would be revealed by going through this planning process. We would be able to address that. We would also ask for another transit vehicle so that we can transport more people at one (1) time, and then we would look at establishing the second satellite base yard location. Again, hopefully that can be at an existing County facility. That will be our first choice which will be looking to see what is existing there, rather than looking to purchase a piece of land somewhere. That is what I have assembled. Do you have any questions on that?

Mr. Bynum: Thank you very much, Celia. Thanks to the Mayor for letting you provide this information because I know the way you guys work over there. You are thinking about all of this all of the time. It is not like you

had to fix this all up in a week, right? It is something that you mull over. In your testimony previously, you said we are turning away riders right now on these main lines. With this proposal, Spring of 2014, which I realize is lightning speed in County terms, you could address that need but it is still going to take a year, right?

Ms. Mahikoa: Right. Again, that is contingent upon additional space and successful receipt of additional vehicles.

Mr. Bynum: You have buses out for bid and you have some experience doing that so likely they will come?

Ms. Mahikoa: We are hopeful, yes.

Mr. Bynum: Okay. If there was no additional funding, how long until we could address this current need?

Ms. Mahikoa: If there was no additional funding...if we can get free space and free check-in facility at that free space and...we would not be able to implement any additional service. The main light route...

Mr. Bynum: This one hundred forty-two thousand dollars (\$142,000) is personnel for people to drive those buses, right?

Ms. Mahikoa: It is the personnel, the fuel, supplies, and everything that goes into providing those two (2) mainlines. Yes.

Mr. Bynum: I will save some comments for when we call back to order because this is important.

Chair Furfaro: Thank you. Mr. Hooser.

Mr. Hooser: When is it likely that those buses—or how guaranteed that the busses will be delivered? When will it be delivered?

Ms. Mahikoa: The bid just went out again—I believe it was yesterday. With successful award by the end of June and beginning of a contract of notice to proceed by the end of June, we are estimating Spring of 2014.

Mr. Hooser: Spring of 2014 is about this time next year?

Ms. Mahikoa: Yes. We are probably looking at about March or so.

Mr. Hooser: Okay. There are two (2) dates says “Winter of 2013.” I thought we already passed the Winter of 2013. Is that December of 2013?

Ms. Mahikoa: Yes, sorry. I meant December.

Mr. Hooser: Okay. I just wanted to be clear. The two (2) items, forty thousand dollars (\$40,000) and sixty-eight thousand dollars (\$68,000); you anticipate needing those funds at those times?

Ms. Mahikoa: Yes.

Mr. Hooser: Okay.

Ms. Mahikoa: Ideally, yes.

Mr. Hooser: Even though this is framed around a fuel tax, it is really about the funds, not the tax.

Ms. Mahikoa: Right.

Mr. Hooser: If the Administration supported your project and the Council wanted to transfer money into the Budget, that could be separate from the fuel tax and accomplish the same ends. Thank you.

Ms. Mahikoa: That is correct.

Mr. Hooser: Thank you.

Chair Furfaro: Are there any other questions?

Ms. Nakamura: Thank you for being here, Celia. I wanted to ask you; this additional base yard space would be for the additional buses coming in Līhu'e?

Ms. Mahikoa: Yes.

Ms. Nakamura: Do you not need funding for Environmental Assessments, land-use permits, and entitlements in order to use that space?

Ms. Mahikoa: Depending on the location, one (1), and two (2), we anticipate just building, say like a small storage, under one thousand (1,000) foot structure in order to do that. We currently have an exemption list on file with the Office of Environmental Quality Control.

Ms. Yukimura: Okay. A bus yard would also not be subject Chapter 343?

Ms. Mahikoa: We would need to research that further. If we are looking at a whole new location with a new purpose, we would need to research that further. What we are looking at is existing, similarly used locations.

Ms. Nakamura: Right. I was just thinking that funding may be needed because although it is an existing space, it is the impacts of buses coming in and out. I am not sure what the surrounding uses are. That is something that I think raises a flag that for all of these base yards that you would need to think about additional funding for them, unless you have an outright exemption.

Ms. Mahikoa: With that, we would have to of course research it and ensure that we are compliant.

Ms. Nakamura: Also, the Departmental Transportation Coordinator, would that person just be focused on transit?

Ms. Mahikoa: Yes.

Ms. Nakamura: Because we have our Transportation Planner, I think we should maybe think about calling it a "Transit Coordinator," if that is what you are looking at.

Ms. Mahikoa: Good point.

Ms. Nakamura: I guess for the Fiscal Year 15 and Fiscal Year 16 base yard locations, the fifty thousand dollars (\$50,000) in each; is that for improvements to the site?

Ms. Mahikoa: Yes, that was just envisioning that storage structure that we would need.

Ms. Nakamura: Okay. That is why I am thinking that those numbers would probably need to be a little higher if you are going to do new base yards, even if it is on County owned land.

Ms. Mahikoa: Thank you.

Ms. Nakamura: Also, just the assumptions, the projected and start date; the (inaudible) in Fiscal Year 14, is that consistent with the bill in front of us? Maybe this is a question for Councilmember Yukimura? The assumptions on the very top?

Ms. Yukimura: In terms of time?

Ms. Nakamura: In terms of time and amount and consistency with the bill in front of us?

Ms. Yukimura: No, it is not consistent with the bill in front of us. It is consistent with the original bill.

Ms. Nakamura: Okay. The one original bill from the Administration was \$0.02.

Ms. Yukimura: The original bill as amended then. It was also further amended, so it was the original fuel tax increase.

Ms. Nakamura: Why do we not do this. The original bill, \$0.02, was going into Roads. The amended version got us to \$0.03 of which \$0.02 went to the bus and \$0.01 went to the Roads, so it is not a fair comparison. That is all I want to say. It is not a fair comparison. Your piece in the Resolution is that everything is going to the bus. At a penny, we generate two hundred fifty thousand dollars (\$250,000), right? At three (3) pennies, we generate seven hundred fifty thousand dollars (\$750,000), all to the bus.

Ms. Mahikoa: If that is what is chosen to do with the funds. This is just me showing what we would be able to do if we had the additional funds.

Chair Furfaro: We have to understand, Celia; the five hundred forty-eight thousand dollars (\$548,000), originally in the Mayor's Budget is gone and does not exist. The first time this went through in committee for money for the bus, the formula was inverted. The bigger portion in the first year went to the bus, not to the roads. This Resolution is kind of like about starting fresh. People

should not try to make the comparisons. It should stand on its own merit for what was presented to us.

Ms. Yukimura: You are right, Chair. I think Celia said the same thing. It is showing how money is generated by \$0.01, \$0.02, and then \$0.01 can be used for the bus. I think there was discussion that "she does not have any plan to use those moneys for," and I think she is showing us that they have thought through a lot of the plans. I have a question but why do we not go to Councilmember Kagawa?

Chair Furfaro:

Mr. Kagawa, you have the floor.

Mr. Kagawa: Thank you, Mr. Chair. Thank you, Celia. I must say this request for \$0.01 looks like something I could almost bite. I value your bus program. I value the people's testimony and the people who use it. I am troubled with the effect that it may have on businesses that communicated to me. This Fiscal Year 14 request looks much better. I just have a question. For the Transportation Coordinator position, is that person specifically going to be hired to oversee the expansion or just share in the overall duties that you guys will delegate?

Ms. Mahikoa: Actually both, but primarily they will serve to carry out the plan, ensuring that it comes out of the short range transit plan.

Mr. Kagawa: Would we have a requirement at sixty-eight thousand dollars (\$68,000), almost seventy thousand dollars (\$70,000), to have the experience in managing? This is what happens and this is what concerns me. We have auditors working for the County without government accounting backgrounds. We have planners without Planning degrees, without Planning experience. It seems like, random people get hired somehow in these management type positions and if we are going to do that with this position, I will tell you straight up I am not going to support it. If we plan to hire somebody that can legitimately bring some new knowledge to your Department, then certainly, I am going to think about it. When we add this kind of position, I would like to see a job description, if that could be provided. If we are voting on it today, tomorrow would be a little too late. The other question is—and I have had this one from the public, who are watching. Of the three million three hundred thousand dollars (\$3,300,000) that goes to transit service; how much people does that serve?

Ms. Mahikoa:

You are asking how many...

Mr. Kagawa: How many different people, not the same people riding five (5) times a day. How much different individuals paratransit?

Ms. Mahikoa:

That we serve on paratransit?

Mr. Kagawa:
trips.

Yes, different individuals, not individual

Ms. Mahikoa: Individuals served would probably be about—I am sorry, I cannot give you an exact number.

Mr. Kagawa:
some point.

Okay. I am going to need an exact number at

Chair Furfaro: I can give an exact number. I was there yesterday. It was surprising to me. We have twenty-two (22) pages of eighteen (18) people per page or three hundred ninety-eight (398) paratransit rides of which they service, from what I could follow, two hundred seventy-six (276) people. That means the difference between three hundred ninety-six (396) and the two hundred seventy-six (276). Those were people that were riding more than one (1) place. Maybe a third of them are using it more, but I was just overwhelmed with the fact on a typical day, there are three hundred ninety-eight (398) people that are getting door to door service, not on the main routes. It represented thirty-nine percent (39%) of your costs. That is where there is an opportunity and when you probe a little further—I am sixty-four (64) years old. People can fill out an application at sixty (60) to get a door to door ride without any other qualifications other than being sixty (60). Over here, we have 'Ohana Medical, Aloha Care, Hawai'i Quest, but they would send their own transport out to these people, not just to take them to the doctor or the hospital, but to take them to a doctor's appointment without having to depend on the paratransit. I think we have not explored this a lot. I think future found moneys are in getting a better policy together because right now, a third of them are calling and riding more than one (1) location, and their only qualifications are that they registered, they are over sixty (60), and they are not on the mainline and we have to pick them up door to door. That is what I found out yesterday.

Mr. Kagawa: Thank you for that information, Mr. Chair. I guess my only comment is that my vote today—if I vote against it and it fails, it does not mean that I will not look for the first year's increment. Tomorrow we have Decision-Making, and Transportation is high on my priority list for additions. I just want to leave you with that, Celia. Thank you.

Ms. Yukimura: On the paratransit, Celia, I know I have questioned you about this because it is a huge cost for a few people, but is it required by law. Is it not?

Chair Furfaro: May I just say something here? You exceed what the law expects as a minimum qualification.

Ms. Mahikoa: That is correct.

Chair Furfaro: That is my point. The thirty-seven percent (37%) cost, if we could apply to what the law requires of us, you could probably reduce that by half.

Ms. Mahikoa: Probably.

Chair Furfaro: That is my point, JoAnn.

Ms. Yukimura: We have discussed that because it is a big cost. But I asked Celia, "Should we not change the age? Should we not require that people have disabilities so that the able elderly have to ride the bus?" You are actually preparing for that, right? Can you explain that?

Ms. Mahikoa: We are looking at—I am hoping to be able to have everything aligned by this time next year to have a restructuring of the bus pass program available to where we can allow an annual pass for seniors and disabled individuals that would serve as an extremely discounted pass. That would serve as an incentive for individuals to use the fixed route system, which is similar

to what O'ahu Transit Services (OTS) uses on O'ahu. That is one (1) of our goals for this year to be able to accomplish that.

Ms. Yukimura: I thought also that the use of the fixed route system depends on in part the bus stops being accessible and easy to access by able seniors, right? There are a lot of policy evolutions that have to happen, but we have forty-nine (49) stops that are now engineered so that—or will be engineered by summer. It will make those bus stops more accessible for the able elderly. They will not have to walk into the middle of the road to get to bus stops and things like that.

Chair Furfaro: JoAnn, I want to make sure you understood my point because I do understand your point. The way it is set up now after visiting— this is door to door service, not getting to the main route.

Ms. Yukimura: No, but it is about more of those people who are using the door to door service, being able to use the main route.

Chair Furfaro: If you are going to interrupt me...I think you know my point. I am not sure I am convincing you. I am not targeting the needed elderly. There are people who are sixty (60) years old. They run faster than me at sixty-four (64). They get door to door pickup.

Ms. Mahikoa: It may be time to reassess everything that we have.

Chair Furfaro: The may be time is the fact that I went and researched three (3) medical plans that deal with the fact that they would do door to door in their medical plan to service a few of those people that need door to door. Maybe it is time for us to explore Aloha Care or whatever those three (3) I shared with you because they do it. It is not just to the hospital. It is to a medical appointment. Those are the things that we need to cultivate is what I am saying, so that our dollars on the mainline can go further for more people for added routes. That is what I am saying.

Mr. Hooser: Yes, the issue before us is raising the fuel tax. I think we have had some healthy discussion on the bus. Really, we are not voting on expanding the bus.

Chair Furfaro: I agree with you.

Mr. Hooser: I was hoping...

Chair Furfaro: The question came up from one (1) of the members and I just happened to do my homework.

Mr. Hooser: Again, I would just want to move it along, if we could.

Chair Furfaro: I think that is my job. I appreciate your piece, but I did not want to sit here and have another discussion where we have to go back and look up the information. I had it and shared it.

Ms. Yukimura: You mentioned on your implement Fiscal Year 15 that the larger transit vehicles have a life that is two (2) times longer than the smaller vehicles?

Ms. Mahikoa: Yes.

Ms. Yukimura: Okay. That is a good investment. The proposal that the Chair is making about changing some of the rules and the policy regarding the paratransit system; those are some of the things that a planner position could do and research and move forward, right?

Ms. Mahikoa: Yes.

Ms. Yukimura: Lastly, on Mr. Kagawa's point about who and how you hire—you were hired as an accountant, right? Now you are the manager of the bus system. I would say that the bus system has had remarkable luck in terms of their personnel choices. Thank you.

Mr. Bynum: I spent most of my career in social services and I also drove paratransit at one (1) point when I was in college. I do not believe our policies are too liberal. I would invite people to spend a day with a paratransit driver and look at the people that they serve in this community. My phone is ringing right now, from people with disabilities that are watching this, that are concerned. This is not an extremely generous service. It is one (1) that is desperately needed. I think Celia clearly knows what it is that we need to do on the mainlines to appropriately bring those numbers down. I would be very reluctant to change our policies about who, what age, and what under circumstances. It is a very complex issue. It involves the neediest people in our community. Anyone who has worked a lot in social services knows that, so I just get really uncomfortable at the sense that, "Oh, there is a place where we can save money." Yes, if we do the right things on the mainline. Do you agree with what I am saying?

Chair Furfaro: This is about the fuel tax.

Mr. Rapozo: Thank you, Mr. Chair. We are in a bus discussion right now. The bill is about fuel tax and I have to echo what Mr. Hooser said.

Ms. Yukimura: I agree, but it was Councilmembers who asked for a plan, and that is what is here.

Mr. Rapozo: I will save my comments for discussion. I do not have any questions.

Chair Furfaro: Celia, thank you very much. I have to tell you, I am very proud of the bus service that you run. I had a good day there yesterday before you guys saw me peaking through the buses. You have done a good job. I actually wanted to bring up Steve for a moment, if I could.

Ms. Mahikoa: While we are waiting for Steve to come up, I just wanted to acknowledge the awesome team that I have down there like our drivers who serve every day, our dispatchers, our mechanics, our fiscal staff and everyone. It is an incredible blessing to be working with that team of people.

Chair Furfaro: Do not forget the two (2) ladies in the back that came down.

Ms. Mahikoa: Yes, my support system.

Chair Furfaro: Steve, this is a stretch and people might raise the challenge with the Chair. But in this fuel money, she is talking about buying a bus or two (2). My question is did we not have a hang up with the last bus specifications that forced us not to buy new equipment?

Mr. Hunt: There was a prolonged contest, if you will, of the Request For Proposal (RFP) that went out. We never even got to the point of awarding. The process itself was being challenged and it had to do with issue of having a dealership in the State of Hawai'i, and we have gone round and round because of the Federal funds that are involved, as well as the State involved. It was difficult for either one to relinquish their position and to put it in a "Catch-22." We have finally pushed far enough with the State to move that along to change our RFP to take out a specific word that was being contested. So going forward now, hopefully there will not be any more challenges to the RFP and we will move this along.

Chair Furfaro: It is resolved?

Mr. Hunt: We hope.

Chair Furfaro: Thank you. Anybody with questions for Steve?

Ms. Nakamura: Steve, I wanted to ask you, the fuel tax under what was proposed by the Administration was going to create approximately five hundred sixty-nine thousand dollars (\$569,000) in revenue.

Mr. Hunt: Correct.

Ms. Nakamura: That has been incorporated into the Supplemental Budget that you submitted to the Council today?

Mr. Hunt: Correct, we have not changed that.

Ms. Nakamura: Okay. If the additional resolution in front of us—there would be no change to that this year? It would still be at the \$0.02 and the following year it would be \$0.01, but the five hundred sixty-nine thousand dollars (\$569,000) was only for six (6) months?

Mr. Hunt: No, the five hundred sixty-nine thousand dollars (\$569,000) was for the year, although my discussions with Mallory—I cannot think of her last name...Fujitani I think, at State, said, "Depending on how fast this pass of both the Resolution and the Ordinance is, we may not be able to enact it by July 1st. It may be pushed into August. We may lose a month, but we are budgeting as of July 1st."

Ms. Nakamura: Okay. The five hundred sixty-nine thousand dollars (\$569,000) is what we would receive for the year?

Mr. Hunt: Correct. In additional revenue, yes.

Ms. Nakamura: Okay. If we do not approve this fuel tax, then we will need to find funding in the Budget that you submitted to make up for this?

Mr. Hunt: Or you will need to find it.

Ms. Nakamura: Yes, this body will need to find five hundred sixty-nine thousand dollars (\$569,000).

Mr. Hunt: Correct.

Ms. Nakamura: Okay. There are really three (3) major taxes—two (2) taxes and a fee which are the fuel tax, the vehicle weight tax, and the vehicle registration fee. I know it is not all related to this Budget, but to me it is one (1) cumulative impact to each car owner. I think that is where I have some concerns that it is all coming on at one (1) time. I realize because we have not kept up with these fee increases, that we are doing this all at once. I think that is a concern. Thank you.

Chair Furfaro: Questions for Steve? Go ahead, Tim.

Mr. Bynum: Now I am confused. The proposal from the Mayor was to increase the fuel tax by how much?

Mr. Hunt: \$0.02.

Mr. Bynum: That it is?

Mr. Hunt: No increase for the following. The \$0.02 will remain in effect.

Mr. Bynum: Increase it \$0.02 now, and then we amended it to say \$0.03 in the first year, \$0.01 in the second, and then \$0.02 more in the third year.

Mr. Hunt: That was the initial amendment.

Mr. Bynum: Did it pass?

Ms. Yukimura: Yes. The bill did not pass in committee as amended, but it is on the floor as it was amended in committee, is it not? Yes. So that bill is a \$0.01/\$0.02/\$0.00.

Mr. Bynum: Okay. Thank you.

Chair Furfaro: Celia, thank you very much for being here late in the evening. I wanted to make sure that you understand that what I was answering Ross about is not something that I want to do today, but it is darn right something that you folks have to look at in the Transportation Department because thirty-seven percent (37%) of your costs are tied up to that piece. Thank you.

Ms. Mahikoa: Thank you.

Chair Furfaro: Steve, I have no more questions for you. You have a question? Go ahead, Mr. Hooser.

Mr. Hooser: I hesitate to ask because it is a long day, but it affects the funding in the Highway Fund and just to be clear because it is related to the fuel tax in terms of finding money, if the tax did not pass. In the Highway Fund, Capital Improvements, you have fuel tanks for the Kapa'a Baseyard, which will be funded by the Bond Fund, as well as the Highway Fund. In theory, those moneys could be entirely shifted to the Bond Fund. Am I correct?

Mr. Hunt: I do not have it in front of me, I am sorry.

Mr. Hooser: It says part of it is being funded by the Bond Fund. It is a new project, but you have got it also listed in the Highway Fund, so part of it is by the Bond Fund...

Mr. Hunt: It may be a match and it may be coming from the highway as a match. I am not sure.

Mr. Hooser: Okay. You have other projects in the Highway Fund, like the Kapahi replacement that I am imagining could be shifted to the Bond Fund and free up four hundred thousand dollars (\$400,000) in highway funds to compensate, if for some reason the fuel tax did not pass.

Mr. Hunt: I believe where possible, the Highway Fund is being leveraged for matching, I think is why we are using that particular fund. If you want to supplant the entire—I would have to look at it. I am not sure on the Capital Improvement side.

Mr. Hooser: Okay.

Chair Furfaro: Just a reminder, we are drifting a little when we are talking about the Bond Fund.

Mr. Hooser: Right.

Chair Furfaro: I just wanted to point that out. I am giving you that liberty.

Mr. Hooser: No, I understand that. I appreciate that, Chair. We wandered on the bus and I figured this was relative to the dollar amounts that may not pass. Thank you.

Chair Furfaro: Thank you. Any more questions for either? Thank you very much. I will call the meeting back to order. Does anybody want to speak on this Resolution?

The meeting was called back to order, and proceeded as follows:

Ms. Yukimura: Can I have a five (5) minute recess?

Chair Furfaro: Okay. I want to say that it is 6:25 p.m. Staff, can we keep going when we get back? Okay.

There being no objections, the meeting was recessed at 6:27 p.m.

The meeting reconvened at 6:41 p.m., and proceeded as follows:

Chair Furfaro: I want to call us back to session and point out a couple of things to the members here. We have fourteen (14) more items to cover and three (3) Executive Sessions that can possibly be deferred. I gave you folks a ten (10) minute recess that turned out to be fourteen (14) minutes, let us vote because I want to remind you that you only asked for five (5). I have to learn to say no because you ask for five (5) and I give you ten (10) and you take fourteen (14). JoAnn, I will give you the floor. We are called back into session, here. Go ahead.

Ms. Yukimura: Thank you, Chair. I believe we have a motion on the floor to approve and a second, and I would like to offer an amendment.

Ms. Yukimura moved to amend Resolution No. 2013-47, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Mr. Bynum.

Chair Furfaro: Okay. The Chair will recognize you, JoAnn.

Ms. Yukimura: Thank you. This amendment does not add anything to the Mayor's \$0.02 for this year, but adds \$0.02 for next year, and \$0.02 for the following year. It is about an investment for the future of Kaua'i in terms of the bus system. We know that it is already crowded and needs to be expanded. I believe that as gas prices continue to rise, there will be an even greater demand for the bus. Included in that group are the elderly, those with disabilities and young people who cannot drive. I think the figure is that about thirty percent (30%) of our population cannot drive. It also includes commuters and able-bodied people of all ages. I have pointed out that it will help tremendously to lower the vehicle miles traveled each year. That is one (1) of the goals in both our Energy Sustainability Plan and in our Multimodal Land Transportation Plan. If the price of gas goes up, more and more people will need to ride it. I mentioned that it has been said that next to an investment in early education, the next investment that would give the most leverage is an investment in public transportation. The thing about this is that it lowers household costs for those who ride the bus. It really will enable our families to save money. For all of those reasons, I hope that we will make the really long range choice to invest in the bus with these increases that will be less than a cost of a Starbucks drink or a McDonald's dinner per month. Thank you.

Chair Furfaro: JoAnn, I have a question for you. I think one (1) of the members brought this up earlier, but would you be willing to do this for two (2) years while it is in the term of the current Council? That would be two (2) and two (2).

Ms. Yukimura: Chair, you know the increase that we make this year and next year is not going to be limited to two (2) years. They have impacts beyond our term. I feel that is sort of an artificial line. Whether it is Economic Development or Parks, we are making these changes and improvements to last beyond our terms. I would rather add another year than take away.

Chair Furfaro: Okay.

Ms. Yukimura: Thank you.

Chair Furfaro: But I remember that discussion from members.

Ms. Yukimura: Yes

Chair Furfaro: I thought it was fair and reasonable. They wanted to be responsible for the \$0.02 and \$0.02 during the term that they were at the Council.

Ms. Yukimura: Yes, I understand but those increases go beyond the term, and I think it is our job to think about the future. Also, we are making incremental changes like we should have made with the vehicle weight tax and the registration fees. This is actually a good practice.

Chair Furfaro: Okay.

Ms. Yukimura: Thank you.

Chair Furfaro: Any more questions of the member that made the amendments? Mr. Bynum?

Mr. Bynum: I just had this written down on a piece of paper and I just want to make sure that I am not confused. The Mayor's proposal was for \$0.02 this year and now this amendment would keep that \$0.02?

Ms. Yukimura: Yes.

Mr. Bynum: And add two (2) and two (2)?

Ms. Yukimura: Yes.

Mr. Bynum: That is my question.

Chair Furfaro: Did that answer your question?

Mr. Bynum: Yes, I know what the intent is.

Chair Furfaro: Questions?

Mr. Rapozo: Call for the question.

Chair Furfaro: Okay. This is the question on the amendment. May I ask for a roll call vote on the amendment?

The motion to amend Resolution 2013-47, Draft 2, to Draft 3, was then put, and carried by the following vote:

FOR AMENDMENT:	Bynum, Yukimura, Furfaro	TOTAL – 3,
AGAINST AMENDMENT:	Hooser, Kagawa, Nakamura, Rapozo	TOTAL – 4,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: The amendment does not pass.

Mr. Bynum: Mr. Chair, may I ask for a three (3) minute recess? I will actually keep it to three (3) minutes.

Chair Furfaro: I will believe it when I see it, but I will give you the three (3) minutes. Actually, we are going to now take a dinner break because we have almost fourteen (14) items to go. Dinner break will be for one (1) hour. Do not be late, be back at 7:50 p.m. We are on recess for dinner.

There being no objections, the meeting was recessed at 6:50 p.m.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: We are back from our dinner break. We are still on the first resolution, Resolution No. 2013-47, Draft 2. The first amendment that was introduced failed. I think the way we left it was where Mr. Bynum was having some work done at the dinner break, right?

Mr. Bynum moved to amend Resolution No. 2013-47, Draft 2 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 2, seconded by Ms. Yukimura.

Mr. Bynum: What the amendment does is keep the \$0.02 for this year that the Mayor proposed and adds an additional \$0.02 in July of 2014, but eliminates the \$0.02 that was in JoAnn's amendment for 15. I thought this was a reasonable compromise.

Chair Furfaro: I need a 7th member, if he is in the building. I am going to put this on hold and go to the next item until we have seven (7) members in the building. We will go to the next item for now.

There being no objections, Bill No. 2460, Draft 1 was taken out of the order.

BILLS FOR SECOND READING:

BILL NO. 2460, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, OF THE KAUAI COUNTY CODE 1987, AS AMENDED, ENTITLED "BUILDING CODE"

Mr. Bynum: I believe we have a request to defer this bill because of recent legislative bill that appears that we need to make corrections. I believe there is a request to defer.

Chair Furfaro: I just went over that with the Clerk's Office and I do not remember that. Did you have something that asked for a deferral?

Ms. Yukimura: Yes.

Mr. Rapozo: It was from Mr. Dill, I believe.

Chair Furfaro: Okay. Got it, from Mr. Dill.

Mr. Bynum moved to defer Bill No. 2460, Draft 1, seconded by Mr. Rapozo, and unanimously carried.

There being no objections, Bill No. 2470, Draft 1 was taken out of the order.

BILL NO. 2470, Draft 1 – A BILL FOR AN ORDINANCE AMENDING SECTION 23-3.7 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO CONCESSIONS AT SPOUTING HORN (*Parks and Recreation Improvement and Maintenance Revolving Fund*): Ms. Yukimura moved to approve Bill No. 2470, Draft 1, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Kagawa, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

There being no objections, Bill No. 2474 was taken out of the order.

BILL NO. 2474 – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND AND THE BEAUTIFICATION FUND (*General Fund – Department of Finance, General Liability Account – \$764,194.00*): Mr. Kagawa moved to approve Bill No. 2474, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Rapozo.

Ms. Yukimura: At the risk of sounding like a broken record, this is partly to cover the Puhi Metals clean up and is evidence of the lack of management in the Solid Waste Division. I want to point out that it is costing us a lot of money that we could use in this next Budget, but I hope the Administration is taking heed and will make some changes to address the problem. Thank you.

Chair Furfaro: Can I suspend the rules and ask Steve to come up for a second? Whatever the circumstances about this particular money and how we got there, I just wanted to ask is it feasible that because we would release this for operations and it would be operated by a third party, could this clean up actually come out of future bond money?

There being no objections, the rules were suspended.

Mr. Hunt: To the extent that we would have to research the amount covered under the privatization, it is conceivable that a portion of it could be bond funded. I am not sure if all of it could be.

Chair Furfaro: Well, I was looking for any portion that could qualify.

Mr. Hunt: That would be a question for Keith Suga to determine how much we are currently committed to those private entities and how much we could put under that small umbrella of privatization.

Chair Furfaro: Let us leave at that right now. This is going to cover us over a little longer period than I think all of us would like to acknowledge, but if you would pursue question, I would appreciate it. Thank you very much Steve. We have another question for you from JoAnn.

Ms. Yukimura: I was not quite clear what you mentioned about privatization.

Mr. Hunt: With the use of Bond Funds, if you have a third party entity that is involved in any of these Capital Improvement Projects, you are only allowed a percentage. It is either a percentage cap or hard dollar cap, depending on the amount and certain funds are not even available for privatization at all. I believe that 2010 bonds still have some privatization left within their, but if you look at a feasibility study or any soft moneys and/or construction moneys that go to a project, and then that projects gets turned by, leased over, run by a third party, the entire amount then is considered privatized within your Bond Fund. You are only allowed a certain percentage of what you get into potential violation. I know we had that issue with prior to my arrival, the landfill where there was a company running it and we had Alternative Minimum Tax (AMT) that we to get out of a certain bond to free up that. We were not under those conditions.

Ms. Yukimura: Thank you.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: If you could just pursue my query. We do not have an answer for tonight but if you could pursue it, I would certainly appreciate it. Thank you, Steve. Are there any other questions? If not, we have a motion and second, so let us do a roll call vote.

The motion to approve Bill No. 2474 on second and final reading was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapoza, Yukimura, Furfaro	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: Thank you very much. Let us go back to the initial item that we started with back in resolutions. I will give Mr. Bynum the floor.

There being no objections, the rules were suspended.

Mr. Bynum: The last amendment failed and this amendment would add two (2) additional cents in July 1, 2014 and eliminate the \$0.02 proposed for 2015. I will give some comments and I agree with Councilmember Hooser that the discussion we had with Celia was related to the Transportation Agency and the need to expand the bus in the short term is not necessarily related to this bill that, that need could be funded in other ways in the County Budget; however, I believe that the fuel tax is a good way to fund these kind of initiatives because the burden is not paid exclusively by residents, but also by commercial and visitors and other people who come to the island. It also benefits commuters and whether they are in cars or the bus. I think it is an appropriate way

to fund that and I feel that it is essential that we not delay the moves that Celia said. Our bus is a success story. We increased routes. We increased ridership and right now today, people are being turned away on those primary commuter routes. What that creates is we have a class of bus riders who have no other option than the bus, so they are a big part of the ridership but we also have a growing among people who choose to ride the bus. They do not have to. They choose to and if we cannot accommodate them, fewer people will make those choices. We have adopted a transportation plan that relies on improving transit because of what we all know, the State is very unlikely to fund significant *mauka* highway in our lifetimes. I think we, wisely as a County, listened to our Transportation Planners and said, "Yes, we are going to maximize transit a way to keep our existing roads viable. I think that is critically important and this amendment is a reasonable compromise. I hope people can support it.

Chair Furfaro:

Any further discussion?

Mr. Kagawa: Thank you. I am worried about today and the year to come. Raising the gas tax is going to affect everyone. It is going to affect businesses. Everybody is struggling out there, at least the people in my circle, and the cost of gas is not something that we even control. It is based on what happens in the stock market with the fuel and with a lot of things. Sometimes the fuel, the barrel, goes down and the price of gas when you fill up goes up. It is controlled by a lot of variables. This gas tax will increase our fuel costs. We know that. I am not going to support something that is going to burden everybody, even more as people continue to struggle through this recession. Thank you.

Chair Furfaro:

Any further discussion?

Ms. Yukimura: Expanding our bus system is helping our people get off of their dependency on oil because they will have alternatives that do not use as much oil. I was describing that if there is one (1) person in a car, one (1) gallon will take them, say twenty-five (25) miles. That is twenty-five (25) passenger miles to a gallon of gas. If you have one (1) gallon of gas, or diesel in a bus, and say one (1) gallon will take them eight (8) to ten (10) miles, but if you have forty (40) people in the bus, it is forty (40) times ten (10), which is four hundred (400) passenger miles on one (1) gallon of gas, versus twenty-five (25) passenger miles on one (1) gallon in a car. We make more efficient use of the gas that we do use, and of course, hopefully, our bus will find some bio fuel source, but even now we are getting them using oil more efficiently, and then when the price of gas goes high, they do not have to drive a car. They will have alternatives that will save their families money. This is a way to help people make that transition that we all have to make. We are kind of debating about one million dollars (\$1,000,000) if \$0.02, \$0.02, \$0.0—right now it is \$0.02/\$0.02. We are debating a million dollars and if we have to expand our roads as I mentioned, going two (2) lanes to four (4) lanes from Līhu'e to Puhi is costing us eighty million dollars (\$80,000,000), whereas a million dollars can allow so many people to travel on this island. Those are the dimensions that we are looking at here. I think money that is invested in the bus will take us far if you pardon the pun.

Chair Furfaro:

Any further commentary?

Mr. Rapozo: I was not going to say anything because I think enough has been said from last week and this week, but I do not know how this discussion has focused on the bus. This was a \$0.02 per gallon proposed by the

Administration for the Highway Fund. Councilmember Yukimura proposed an amendment that would have taken those funds and taken it to the bus. That did not pass. We are back to Highway Fund. The whole discussion today has surrendered the bus and the expansion. My concern is that our people—not everybody is going to ride the bus. We know that. This island—the demographics, geography, and the fact that many of our people have multiple jobs, they cannot ride the bus. I cannot ride the bus. Even if I wanted to ride the bus, I could not. There are many people like that. My daughter has two (2) jobs and goes to school. She cannot ride the bus. I do not care if you charge \$0.10 a gallon more, she still has to drive and I still have to drive. This fantasy of, “If we charge more for gas, more people will ride the bus.” That is true to some extent, but the people on this island that have to drive, does not affect them. It does not help them. The fact of the matter is that there is a huge chunk of this island that have been neglected in the sense of road repairs. Absolutely. The west side like Kekaha, Waimea, and on the east side like Kapa’a, many roads have gone unpaved and, in fact we are told now that we are still not going to pave, for whatever reason, “because we have to take a year off to find out how this computer program works.” Raising the fuel tax for the Highway Fund, in my opinion, is not beneficial to the general public. Yes, I think it would help some, but it is going to put a bigger burden on more people. I agree with Mr. Hooser that if the time comes where we need to look for funds for expanding bus service at that time—last week, the Transportation Department did not have a plan. They had the Multimodal Plan, but the Transportation Department did not have a plan. I asked a question in the Budget discussion, and by her own testimony, the Transportation Director said, “It is not feasible at this time to expand.” You folks all got the same responses that I got from them. All of a sudden, because last week I said I wanted to see a plan, we get a plan. We got a spreadsheet that is just a spreadsheet. It is not a plan. It is a spreadsheet that is first draft, I guess I will say. I appreciate it. That is a good start, but it is not the kind of plan that I am looking for, that we are going to go and burden the taxpayers with more costs. Remember, this is just one (1) of several tax increases. It is not just this one. It is a combination of fuel tax, vehicle tax, a weight tax, and registration fee. The car owner is going to get burdened substantially and maybe not substantial to some of you, but to many of the people that I talk to, it will be. I got a call this morning from Stephen Giraldo from Kaua’i Freight, spoke to Stan Morinaka from Kaua’i Veterans’ Express, spoke to Ron Victorino last night from Kaua’i Commercial, obviously shutting down because of overhead. They do not have the liberty to go out and raise rates. They have to go through Public Utilities Commission (PUC). They have to go through the whole process with the PUC to raise the rates. It is going to affect the businesses on this island, so I cannot support this amendment, nor will I support the bill. I think the impact is far reaching and the people that drive, the people that need to drive, the people that cannot logistically cannot ride the bus because of work, family, whatever; they need a voice in this Council, too. I am their voice today and I am not going to be supporting the bill. Thank you.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: Any more discussion from anyone who has not spoken? I am about ready to call for the vote on the amendment. I would like to do a roll call, please.

The motion to amend Resolution 2013-47, Draft 2, to Draft 3, was then put, and carried by the following vote:

FOR AMENDMENT: Bynum, Nakamura, Yukimura, Furfaro TOTAL – 4,

AGAINST AMENDMENT:	Hooser, Kagawa, Rapozo	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: The amendment passes, so let us vote on the main motion.

The motion to adopt Resolution No. 2013-47, Draft 2 as amended, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Nakamura, Yukimura, Furfaro	TOTAL – 4,
AGAINST ADOPTION:	Hooser, Kagawa, Rapozo	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: We have other business to move on today, because tomorrow morning, we are back early on Budget. We have got several more items here. So as amended, that is passed.

BILLS FOR SECOND READING:

BILL NO. 2475 – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE DEBT SERVICE FUND (*Debt Service Fund - \$2,100,000.00*): Mr. Rapozo moved to approve Bill No. 2475, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Bynum, and carried by the following vote:

FOR APPROVAL:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

BILL NO. 2476 – AN ORDINANCE AMENDING ORDINANCE NO. B-2012-736, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY REVISING THE AMOUNTS ESTIMATED IN THE GOLF FUND (*Golf Fund \$51,459.00*): Mr. Rapozo moved to approve Bill No. 2476, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Bynum.

Chair Furfaro: Excuse me, to the Clerk's Office, the amount being amended is the fifty-one thousand four hundred fifty-nine dollars (\$51,459). Discussion members? Steve, may I ask you to come up for a moment? This is a very quick question. As we go into Decision-Making tomorrow, and for four (4) days, according to the Charter, is there any plan from the Administration to submit a new pricing plan for the rounds of golf at the golf course?

Mr. Hunt: None at this time.

Chair Furfaro:
do a roll call, please

None at this time. Okay. Thank you. Let us

The motion to approve Bill No. 2476 on second and final reading, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

BILL NO. 2477 - AN ORDINANCE AMENDING ORDINANCE NO. B-2012-737, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2012 THROUGH JUNE 30, 2013, BY AMENDING AN EXISTING BUDGET PROVISIO IN THE CAPITAL BUDGET RELATING TO PROJECTS FUNDED WITH COMMUNITY FACILITIES DISTRICT BONDS: Mr. Bynum moved to approve Bill No. 2477, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Rapozo, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

There being no objections, Bill No. 2479 was taken out of the order.

Bill No. 2479 - A BILL FOR AN ORDINANCE AMENDING SUBSECTION (a) OF SECTION 21-9.2 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO INTEGRATED SOLID WASTE MANAGEMENT: Ms. Yukimura moved to approve Bill No. 2479, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Bynum.

Mr. Rapozo: I just wanted to say that this item failed in the committee last week and I would hope that this will not pass as recommended by the committee. Thank you.

Chair Furfaro: Mr. Bynum, you have the floor.

Mr. Bynum: Just to be clear, this bill is about commercial tipping fees at the Solid Waste at the dump. We instituted residential collection fees. We all know that Solid Waste needs contributions from the General Fund and that we do not have options not to fund those. There is going to be a lot of Solid Waste expenses and this user fees make more sense than taking the money directly from the General Fund. If this does not pass, we will still have to come up with these funds and it will come from General Fund revenues. That is why I am in support of this bill.

Chair Furfaro: Mr. Kagawa.

Mr. Kagawa: The Solid Waste Tipping Fees are comparable with other islands. I cannot justify increasing it by almost thirty dollars (\$30) in this

fiscal. I know that the costs of the fees will be passed onto businesses. Garden Island Disposal will not take a loss or cut down on their manpower or whatever. They are going to pass it on to the businesses. Businesses out there are struggling and we cannot continue to burden our businesses with more costs, yet expect them to survive and keep employing our people. I think all of the members have stated at various points about the inefficiencies of management in the Solid Waste Department. There are questions of too much overtime being done like overtime being done on maybe perhaps, times when it could be done during the regular work hours. It is all management. I think before we pass the burden of higher fees to the public, we need to get our own house in order. Thank you, Mr. Chair.

Chair Furfaro:
have the floor.

Anyone else wishing to speak? JoAnn, you

Ms. Yukimura: Thank you. I am very troubled about this bill too, because we would have the one million one hundred thousand dollars (\$1,100,000) that these fees would generate, if we had better management, I believe. I have raised this issue many times. I have not had the Administration come forward to address this. It is very, very hard for me to vote for this.

Mr. Bynum: I know that we all share concerns about management issues at Solid Waste, although all of our concerns are not management. They are also political decisions that management did not have anything to do with. Let us just talk frankly. A lot of the issues between the Administration and the Council have been about getting the appropriate people to do the job. In the bottom line, that is not our call. The Administration has made changes over the last couple of years in leadership that have resulted in some very positive outcomes. I hope that they choose to focus on these management concerns as well. I do not think properly funding the Solid Waste Division should be a tool that we use to send a message about staffing. Anyway, that is my thoughts.

Mr. Hooser: I did not speak on the fuel tax issue...my concerns cut across the board on a lot of these issues, and it is a sum total of all of increases. It will be passed onto the consumer and as I mentioned before in earlier talks, I need confidence that this particular Department, as well as others is not going to keep doing what it has been doing. Millions of dollars lost, because in my opinion, it was not managed properly. I believe it is one (1) of the only tools that we have, which is the Budget. We cannot just keep funding...pushing more money out and reinforcing, in my opinion, bad behavior. I will be voting no on this increase, and hope that the Administration will come up and come up us to soon, and talk to us about Solid Waste and what their plan is to make sure that the same thing does not keep happening? What are they going to do make it different? The same with some of the other areas that we have expressed concerns about. We talked about Planning earlier today. We have not gotten to the golf course in a couple of days it seems like, but we need some reassurance from the Administration. I need some reassurance from the Administration that we are not just going to keep doing the same thing over and over again. I am having a hard time increasing funding to allow that to happen. I will be voting no.

Chair Furfaro:

Any more discussion here?

Mr. Rapozo:

Call for the question.

Chair Furfaro: The question is called for. I just wanted to say that Steve, I would like you to research—it is my understanding that as we leveled out the different funds in last year, we actually transferred a little bit more than was necessary to the Solid Waste Department. I have to go back and look at the audit for that. I think where the transfer should have been almost one million dollars (\$1,000,000) less than what was required. I will not be supporting this at this time based on the fact I want to get some clarity on that. I want to say that we now have another engineer in the Department that manages Solid Waste, and it manages Wastewater. We have an additional half a body engineer, but I think somewhere along the line, we need to say, “Okay, the addition of that person should pay off to us in some other kinds of savings because we are closer to the day to day issues and management of it.” I just want to make sure that I had a moment to give my testimony on my feeling as to why I will be supporting the recommendation that came from the committee. On that, let us do a roll call vote, please.

The motion to approve Bill No. 2479 on second and final reading, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Nakamura	TOTAL – 2,
AGAINST ADOPTION:	Hooser, Kagawa, Rapozo, Yukimura, Furfaro	TOTAL – 5,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Thank you very much. Let us go to the next item, please. Steve, please correct me if I am wrong, but you have to go to last year’s audit.

BILL NO. 2478 – A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891, AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC: Mr. Rapozo moved to approve Bill No. 2478, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Kagawa, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

BILL NO. 2480, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES: Ms. Yukimura to approve Bill No. 2480, Draft 1, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Hooser.

Ms. Yukimura: This is a bill showing that bus riders will be doing their part in raising the fees for the bus. It also is an example of an agency that does a plan and then follows the plan. This was a recommendation of the

Kaua'i Multimodal Land Transportation Plan and it is also an example of good practice, which is keeping up with the incremental increases to cover the inevitable incremental increases of costs, and just another example of the good work of our Transportation Agency.

Chair Furfaro:
the floor.

Further discussion? Mr. Kagawa, you have

Mr. Kagawa: Thank you, Mr. Chair. I will be supporting this bill. This bill will look to recover some of our costs of running the Transportation Agency, which basically costs us—our taxpayers six million six hundred thousand dollars (\$6,600,000) million per year. Next year, will be even a little higher. I just did a quick breakdown with my math. If we just went on the assumption that the amount that you gave us, two hundred seventy-six (276) people ride the bus on that one (1) day that you checked and if you divide that by three point three million (3.3), divide it by three hundred sixty-five (365) days per year; it costs us about thirty-three dollars (\$33) per person for the paratransit. If I divide—and we do not have an accurate number from the Transportation Agency, but if I divide the other three point three (3.3) million, divided by let us say two thousand (2,000) different people use the bus per day...that is a high number I think, but if you just do that, it comes out to four dollars and fifty-two cents (\$4.52) per person for a regular person. Even at two dollars (\$2) per ride, we are still losing a little bit, but it is a good thing because we are gaining in all the good things that come from the public transportation service. I am just happy that we are able to support it. Now one (1) point I want to make out of this is that when we ask the tough questions about the paratransit, and we look for more efficient ways of serving and trying to bring down that cost and reach out and expand to be more efficient in other ways like meeting needs like overcrowded buses and being so stuffed that you have to sit next to tight places. This is what we have to look at. We have to look at the numbers. It is the Council's job to approve the Budget and to make sure that our county spends efficiently. I am not looking at cutting the paratransit services. That is the last thing I want to do. I want to make it more efficient though. Can we cut down on the thirty-two dollars (\$32) per person, per day? Or if I break it down per year, twelve thousand dollars (\$12,000) per person, per year for paratransit. You almost think "should we offer them ten thousand dollars (\$10,000) each per year and they decide to rent a taxi when they need a ride?" We could save just on that. We could save two thousand (2,000) times two hundred seventy-six (276). There is a lot of different things that we need to look at. We have had proposals come to our E-mails, Councilmembers, if you read your E-mails about private people saying, "I want to get into that business. I think I can do it for cheaper." We have to be open minded. We cannot say, "Oh, they are running perfect. No change, nothing. That agency is efficient." Everybody can learn. Everybody is get better. We have to have that attitude. If you tell somebody that they are good, they are not going to change. Let us not only cut certain divisions, let us let everybody know that everybody needs to tighten their belts as we try to meet more demand with limited resources. Thank you, Mr. Chair.

Chair Furfaro:

Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you, Mr. Chair. I have to agree with Mr. Kagawa. The paratransit—I think the number we got in the Budget presentation says it is like twenty-seven dollars (\$27) per fare, per ride, on the paratransit system. I know it sounds awkward, but if we contracted with a cab company for areas like Līhu'e and Kapa'a, I think we would save a lot of money.

Ross is right. But we have not done that analysis. We have not and that is what I am talking about when we want to see a plan. If we are spending that much money and if we can save and cut that in half...if we are running someone from Lihue Gardens to Wilcox Hospital. The senior housing, from Puhi to Wilcox Hospital or from Puhi to Kukui Grove. A cab fare is six dollars (\$6) to seven dollars (\$7). We contract with a cab company, does that make sense? The person calls the paratransit, they are registered, on the list, and dispatches the taxi, and then the taxi sends the County a bill at the end of the month and we save a lot of money. That is what I am looking for. We do not see that. We are trying to see if we can spend the most money and that is where if this Council does not use its authority and oversight and say, "No, you are not going to get the money." It is going to force them to start looking at those alternatives. That is our authority. That is our power and it happens once a year during the Budget. This one here, it is a user fee; I am going to support it like I would support a fuel tax increase if I was assured that that money was going to be used to improve roads. I do not get that assurance and in fact, we are being told that we are not going to get roads. In my mind, this is a justified increase and I will support it. Thank you.

Ms. Yukimura: I think the concerns about the high cost of the paratransit are very valid. I think Ms. Mahikoa would be the first to say that they are not perfect and they are constantly trying to improve. I think this is an area that they will look into, and I think the suggestions that have been made here should be looked into. I look forward to some changes in that area. But developing the kind of plan that I think Councilmember Rapozo is asking for does take some work and homework and giving a position to Celia and the Transportation Agency will help them develop these plans.

Ms. Nakamura: I think I would agree with what has been said earlier; that we need to look outside of the box on the paratransit service. I also noticed that the paratransit fee is one dollar (\$1), whereas bus riders pay two dollars (\$2) and yet, it is the highest cost of service provided. I think we need to look at the service and how we deliver that service and the options and alternative ways to deliver it. I hope that will be part of the short range plan for the agency that we would get soon. Thank you.

Mr. Bynum: I am going to support this bill because it is consistent with the package that was given to us by the Mayor, which I think was appropriate. I have a really, really difficult time with this discussion about paratransit. Celia has already told us what we need to do to reduce these costs. We need to make the bus system amenable to people who are disabilities and the elderly and that will reduce our paratransit costs, but we are a society that decided that we are not going to leave people behind because they are disabled. It costs us a lot to educate people who are blind, but we do not say, "I am sorry, we cannot afford that because it costs us so much more than the average student." We make it happen, because this is America. We do not leave people behind. I find it very interesting that, "Oh, we are really concerned about business and do not pass this fee...really concerned about this group and do not pass this fee, but okay for some of the poorest people who have the most difficulties, let us pass that fee." The last thing is that we all know here that you cannot privatize something that the government currently does. We are a liberal State and we believe in Unions, at least I do. We have laws in this State that says the County cannot privatize things that are currently done by union people. I agree with that law and I do not think the County Council can change that.

Chair Furfaro:
You want to speak, Mr. Hooser?

Anyone else who wants to speak on this item?

Mr. Hooser: Yes. I think a similar discussion was had where I felt since I was not supporting the fuel tax, "should I support the bus fee, since we are not all sharing in the cost?" I think I was convinced by the Chair and the community's argument that part of the plan—and it is a reasonable increase, so therefore I am going to be supporting it. My take is a little bit different. I really see the value in public transportation and I believe it needs to be subsidized. I look forward to Budget discussions over next few days and hopefully voting in support of move something additional funds toward the plans that the Transportation company has put forward. The paratransit...I have firsthand experience with my wife's parents and I know it is an invaluable service and that they would have been home bound if not for that service. It is an expensive service, but I believe it is necessary and important. Also, there are other ways to deliver it, possibly taxi cabs that are equipped properly to carry chairs, and there are all kinds of ways to solve the issue. I do not believe to reduce those kinds of services or begrudge those citizens the service that I believe we owe them. I will support this measure.

Mr. Kagawa: Really quick, the City and County of Honolulu does contract out paratransit services, just to correct you.

Mr. Bynum: If we would have gone that route, we could. I have lobbying us on our Materials Recovery Facility (MRF) to go with privatized operation, but State law is as clear as can be. I would love to maybe privatize maintenance of our parks. I am convinced that the private sector could do a more cost efficient job, but I know under this State law, we cannot do that. We have to focus on increasing efficiencies with our County workers. Just like paratransit, we need to decrease those costs by creating a bus system that can take that load legally and appropriately. We have to look at the big picture. Maybe we should have gone that way to begin with, but once we move down the Government route, that is it.

Mr. Rapozo: I guess I take offense to the comments that because I suggested a contract with a taxi company that I do not care about paratransit users. That is not even close to what I said. The fact that we are using a full sized bus to take one (1) passenger for a short distance is a concern. Do I believe that we have to provide paratransit? Absolutely. Do I believe it has to be done in a twenty (20) passenger or twenty-four (24) passenger bus? No. The cost that it takes to run a bus is a lot more. Now, Mr. Bynum talks about contracts and privatization and all of that. We have not even had a discussion with the Union. We have not. We can assume and speculate all we want. The fact of the matter is that we are paying twenty-seven (\$27) or whatever it is per ride and there is a way to get it done cheaper. That has not been explored. That frustrated me. We need to explore ways in all Departments how we can do more with less. We have not done that. We on this Council, as long as we continue to feed the beast, that is not going to happen. That is all I am saying. We have got to maintain paratransit, believe me. I am very close to a lot of people that utilize that. But I can tell you right now, the State contracts out with taxi services to take people to dialysis treatment. It is done. I think to say that it cannot be done without even some investigation, I do not think that is fair. That is all I am asking is for, which is the Transportation Department to explore it but that was nowhere in the plan and nowhere in the Budget presentation. It is all status quo and that is my concern. I am hoping that everybody learns a lot throughout this process. It is a tough time and drastic

measures are going to have to be taken. I can only hope that the Administration hears this Council's pleas and at least consider some of our suggestions. Thank you.

Chair Furfaro: Before I call for the vote on this, ladies and gentlemen, I just want to remind you all, I do not know if I got a report from anybody else that went down to the Transportation Department to look at a reservation list to ask what the daily transfers are or to ask if there are people using point to point services multiple times in the day and so forth. In business, you know, you look at those things and you analyze them and say, "Hey, where can we be more cost effective?" On that, I went and searched the web and found three (3) medical companies that also provide a service from home to doctor, not at the hospital, but to the doctor's offices. We just could weed through some of those things to see that whatever benefits are out there for our people, the fact of the matter is that they are used as a maximum use first. I saw people that are taking the bus to the airport on a call service, and they get to the airport so they do not have to pay the parking fee for thirty dollars (\$30). They got there for one dollar (\$1) and it is costing us twenty-two dollars (\$22). Those are reasonable facts for us to understand. If anybody here has spent a day—what pleasant people we have in the Transportation Department. The people that are taking the reservations and so forth, they actually live *aloha*. I listened to them. They do not turn people away. We are responsible to look at what can we make more proficient and that was the point here. Making it more proficient also says, "Look, nationwide, transportation costs are covered by the bill of fare about seventeen percent (17%) and about eighty-three percent (83%) of it is subsidized, but we are already at that threshold so we have to look at place where we can try and keep with the trends. We have got to make sure that we also meet the minimal Federal standards. We would never want to find ourselves not doing that. On that note, roll call vote, please.

The motion to approve Bill No. 2480, Draft 1 on second and final reading, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

BILL NO. 2481 - A BILL FOR AN ORDINANCE AMENDING SECTION 5-2.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO MOTOR VEHICLE CERTIFICATE OF OWNERSHIP AND REGISTRATION FEES: Mr. Bynum moved to approve Bill No. 2481, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Ms. Yukimura.

Chair Furfaro: Discussion? Yes, Mr. Kagawa?

Mr. Kagawa: I will be supporting this fee; surprise, surprise. I believe these fees are in line with other States, Cities and Counties, and that is why I am reluctantly supporting it.

Chair Furfaro: Thank you. Any further discussion? Folks, I want to say to you as I evaluated some of this information, I have to tell you for an island with a population of sixty-eight thousand (68,000) and a visitor index of about eighteen thousand (18,000,) that is eighty-three thousand (83,000) people on the

island. I was surprised to find out that we have seventy-nine thousand (79,000) registered vehicles on this island. That is a big ratio of cars to people. Again, just doing—that did not include another one thousand eight hundred (1,800) of trailers, et cetera. It was a substantial number. I just wanted to share that I was shocked with that. Let us call for the vote.

The motion to approve Bill No. 2481 on second and final reading, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Kagawa, Yukimura, Furfaro	TOTAL - 4,
AGAINST ADOPTION:	Hooser, Nakamura, Rapozo	TOTAL - 3,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

BILL NO. 2482 - A BILL FOR AN ORDINANCE AMENDING SECTION 5-2.3, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY MOTOR VEHICLE WEIGHT TAX: Mr. Bynum moved to approve Bill No. 2482, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Ms. Yukimura.

Chair Furfaro: Discussion, members? Mr. Kagawa, you have the floor.

Mr. Kagawa: Back to reality, I will not be supporting this bill. The amounts to the commercial vehicles were just enormous and the commercial vehicles, mind you, represent our businesses out there. Not only will they be affected, but they also pass on costs to further construction projects. I just think the recession is still here and this is a bad time. Thank you.

Chair Furfaro: Any other discussion? I want to be sure that we did the fuel tax and narrowly went through...we did the tipping fees, which did not go through and so form. I want to remind everybody tonight before we get to tomorrow's Decision-Making session, if you keep taking revenue out of the Budget, my written instructions in my opening presentation—if you are trying then to put something on, make sure you are putting it on with a source for the revenue. Just do not come to the table with a shopping list if you do not have the credit card to pay for it. Those are my instructions. Mr. Rapozo, go ahead.

Mr. Rapozo: Thank you, Mr. Chair. I am glad you reminded everyone. I think many Councilmembers—several Councilmembers made it clear in the beginning of the Budget Session that they were not going to be supporting any revenue enhancements or the majority of the revenue enhancements, which is tax and fee increases. I made a plea to the Administration during the Budget process to please go back to your Department and see if you can reduce by another five percent (5%). I am prepared to make up what is going to be for whatever these fees and taxes that do not pass, which does not seem to be that many, but I am prepared in the next few days as we go through Decision-Making to make the necessary cuts. Personally, I have absolutely no additions to the Budget—I take that back. I believe I have maybe one (1) for Finance for an accounting position, which they desperately need, but aside from that, we have got to go into this Budget Decision-Making knowing that the times are lean. I appreciate your caution. My position on this vehicle weight tax is no different than my position on the registration fees and the other tax and fee increase. We have to make sure that we pretty much force the Administration to operate in a much more efficient

manner. Sounds like I am a broken record now, but it is the only way we can do that. It is the only time of the year we can do that, so I will not be supporting the increase. Thank you.

Chair Furfaro:

Okay. Mr. Bynum.

Mr. Bynum: We discussed this Vehicle Weight Tax in Committee, and this would mean \$2 million. So yes, we have a Charter responsibility to deliver a balanced budget. We have to do that. If not, then the Mayor's budget gets accepted as-is, right? So I do not see \$2 million to \$3 million of cuts being made without taking away bodies or playing accounting games to kick the can down the road and put off the difficult decision-making and I am glad Mr. Rapozo is going to take responsibility to find all of those cuts, because I cannot find them. I cannot find them that will be at this magnitude. I do not want us...you know three years ago when I was saying hey, we are losing revenue and we need to bump the fees, not so there are increases, but just so we do not lose more and we do not give tax decreases to a whole category of people and when we get to that I will talk more about that. Everybody said we have been a conservative County for years and you are right, we have been a conservative County for years and I hope we remain that way. So I will not support proposals that take us off that conservative thing and are kind of proposals that yes, we can reduce the budget this year. But not put us on a sustainable path and continue to meet our obligations in a reasonable and responsible way. A lot of the increase in government was voted on by our citizens. They said we want a Parks Department. We want a Boards and Commissions. We want an Open Space Commission. We want these things. We had to respond. So this is part of the bigger discussion, but as we whittle away at these things, we have to find it somewhere else. I do not think it should be kicking the can down the road or through trickery and it is intense and I get emotional about these issues because fairness is really important in the way that we do this.

Chair Furfaro: Just a reminder to all of you folks, my instructions, okay, and we do not practice voodoo accounting here, okay? The fact of the matter, if you want to add something, you have to find a place and my procedure for my third year as the Council Chair, actually my fourth, during the budget time, when Kaipo was across the street as Mayor, I want to make sure that we understand, we are going to go through the cuts first to determine what we end up with reallocating where. Okay? That is how we have done it. Okay? We are not going to talk about revenues first and so forth. This Bill is about revenue. Now thank you to the Administration, your May 8th submittal are in our boxes now. Okay? Tomorrow begins Decision-Making. This is one of those revenue items, and I am going to call for the vote right now. You want to speak? Go right ahead...cancel the call for the vote.

Ms. Nakamura:

I am sorry, I had a question for Steve.

Chair Furfaro:
being here.

Steve, come on up. Thank you, Steve, for

Ms. Nakamura: Steve, on the handout that we received earlier this Budget session I had down one million ninety-three thousand dollars (\$1,093,000) that would be generated by the Vehicle Weight Tax as proposed by the Administration. Councilmember Bynum used the number two million dollars (\$2,000,000). Does this reflect half of the year?

Mr. Hunt: It does, because it would not take effect until January. So if it were approved this year, the impact for next year would be over two million dollars (\$2,000,000).

Chair Furfaro: The start of these is in compliance with the State's process.

Mr. Hunt: Correct.

Ms. Nakamura: Thank you very much. I just wanted to make that clarification. I had a question for Councilmember Rapozo that if we did not pass this, how would you come up with the one million dollars (\$1,000,000)? What would be your recommendations?

Mr. Rapozo: I have submitted my list to the Staff.

Ms. Nakamura: I think that is part of the frustration with this process, that we are making these revenue decisions without having decided on the expenditure side.

Chair Furfaro: Let me clarify, the next time around with the Administration, please be more timely with the recommendations so we do not end up the day before we go to decisions that we are looking at the proposals. That would be helpful.

Ms. Nakamura: Thank you.

Mr. Rapozo: I hope I answered your question. There are some...and there is also additional revenue that is still in the Budget, that I will be discussing in Decision-Making. Mr. Hooser brought up the salaries and whether we take five percent (5) or ten percent (10%) from vacant salaries.

Chair Furfaro: That is something for Executive Session and we have got a legal interpretation on that.

Mr. Rapozo: Well, I am just saying that my decisions to vote against these increases come with support that I will be obviously sharing that during Decision-Making.

Ms. Nakamura: I guess that is my frustration with that is that it would be nice to know that prior to voting on this. My understanding is that we have to vote on this today?

Chair Furfaro: My point is that we did not create the situation. Mr. Hooser, then Mr. Kagawa.

Mr. Hooser: Just to restate the Councilmember's question, the impact on the Budget is five hundred thousand dollars (\$500,000), not two million dollars (\$2,000,000)?

Chair Furfaro: One million dollars (\$1,000,000) for six (6) months.

Ms. Nakamura: For this year it is one million ninety-three thousand dollars (\$1,093,000) and so next year, that is for the six (6) month period.

Mr. Hooser: So the amount needed to be made up is one million dollars (\$1,000,000) in round numbers?

Chair Furfaro: Yes.

Mr. Hooser: I am also not supporting...I will not be supporting this. We have all heard the reasons before and I hesitate to repeat them, but I will. People are earning less money today than they were last year, the year before. The real earnings of people are declining. This County has spent more money than it earned is my understanding the last four (4) or five (5) years and instead of taking prude present steps along the way to close the gap has not been done and we heard the discussion, nothing has been raised in so many years and why not? We are trying to close all of the gaps in one (1) year. On top of that, we have the egregious, if you would, the management practices of a few Departments wasting millions of dollars. I do not want to support it. I believe there is certainly one million dollars (\$1,000,000). We are going to find out tomorrow that the Administration has found lots of money to pay for things that come up. I believe that there are ways to do it. We talked to Staff and when we get to that part of the discussion I will be happy to offer my ideas. In terms of the Chair's suggestion that we keep our list short my list is very, very short, and I have suggestions to make to offset the tiny few things...

Chair Furfaro: I am going to stop you there. The item on agenda is one (1) item, but you have taken the opportunity to talk about your discouragement with the Administration and the waste and so forth. You can have time tomorrow. I want to get through this, because I have to go to Hanalei and I still have to come back tomorrow an hour before you folks have to.

Mr. Hooser: I want to get through, Chair. You raised the issue of the list and I just wanted to reassure you that my list is very short. I was just responding to your suggestion that we keep our list short.

Chair Furfaro: I was only reminding you what was in my original narrative. If you want to add something, find where you are getting the money. That is all I said.

Mr. Hooser: I understand that. I was just responding to that comment. If you had not brought it up, I probably would not have said anything, but I will not be supporting this particular measure. Thank you.

Chair Furfaro: Okay. Mr. Kagawa, you have the floor.

Mr. Kagawa: My response is just to Councilmember Bynum's about, "Oh, we will kick the can down the road or we are in such a bad predicament, where are your cuts?" I was not on this Council the past four (4) years when I added one hundred twenty-five (125) positions to this County. It is not my problem that we are in this predicament. I did not create it. I did not vote for all of the past Budgets that were bloated and failed to neglect more needs for Transportation. I am comfortable and tomorrow I will have my cuts. Thank you.

Chair Furfaro: Okay. Now, if I can get back to the item that we are voting on, and I would encourage all of you over the last six (6) years the citizens have added everything that they thought was necessary to perform the duties of the Council. That list included having an Audit Department. These are by chapter items, so let us be real focused on how we got there. Let us call for the vote on this item.

The motion to approve Bill No. 2482 on second and final reading, was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Yukimura, Furfaro	TOTAL - 3,
AGAINST ADOPTION:	Hooser, Kagawa, Nakamura, Rapozo	TOTAL - 4,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: Okay, that is a million dollars that we will be looking for tomorrow.

BILL NO. 2484, Draft 1 - A BILL FOR AN ORDINANCE AMENDING SECTION 5-1.1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COUNTY FUEL TAX: Ms. Yukimura moved to approve Bill No. 2484, Draft 1, on a second and final reading, and that it be transmitted to the mayor for his approval, seconded by Mr. Bynum.

Chair Furfaro: Is there any discussion?

Mr. Bynum: I have an amendment. This is tied to the resolution that we voted on earlier to make them consistent. This is the same amendment that we voted on previously.

Mr. Bynum moved to amend Bill No. 2484, Draft 1, as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 3, seconded by Ms. Yukimura.

Chair Furfaro: Discussion members?

Ms. Yukimura: Just for the audience, it parallels the resolution and so it would add a fuel tax of \$0.02 for Fiscal Year 14 and another \$0.02 for Fiscal Year 15.

Chair Furfaro: Scott, is it properly...

Mr. Bynum: 2013-2014.

Ms. Yukimura: The Fiscal Year 14 starts on July 1, 2013, but the \$0.02 is for Fiscal Year 14, and then the next cents is for Fiscal Year 15.

Mr. Bynum: That is correct. I am sorry. Which means it starts July 1, 2013.

Chair Furfaro: Is the introducer of the amendment and the person who seconded it, are you copasetic? It means in balance.

Mr. Bynum: Yes.

Chair Furfaro: Okay, very good.

Mr. Bynum: I am just using different terminology.

Chair Furfaro: Any further discussion? If not, roll call vote.

The motion to amend Bill No. 2484, Draft 1 to Draft 2, was then put, and carried by the following vote:

FOR AMENDMENT:	Bynum, Nakamura, Yukimura, Furfaro	TOTAL - 4,
AGAINST AMENDMENT:	Hooser, Kagawa, Rapozo	TOTAL - 3,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: Back to the main motion, please.

The motion to approve Bill No. 2484, Draft 1 as amended was then put, and carried by the following vote:

FOR ADOPTION:	Bynum, Nakamura, Yukimura, Furfaro	TOTAL - 4,
AGAINST ADOPTION:	Hooser, Kagawa, Rapozo	TOTAL - 3,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: Did you want to say something, JoAnn?

Ms. Yukimura: I just thought maybe for the record we can say that since we resumed after dinner, there was nobody in the public who wanted to speak on any of the items.

Chair Furfaro: Well, we have three (3) people in the audience. Thank you for the point. Before we go any further, there are a few Executive Sessions that can be deferred. Would you reference the ones that can be deferred? I am going to ask that we just acknowledge those being deferred.

EXECUTIVE SESSION:

ES-610 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing related to the procurement matter and recommendations as stated in the Management Advisory Report Finding 12-01 "Review Purchasing and Procurement Process of Independent Contractors," and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-628 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council to provide the Council with a briefing to update the Council in Lynell Tokuda, et al. vs. Chris Calio,

et al., Civil No. 13-1-0049 RV (Fifth Circuit Court) and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-629 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(3), and (4), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is for the Council to address issues relating to on-going labor negotiations and related matters and to consult with the County Attorney. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-630 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-5(a)(4) and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to allow Council to consult with the County Attorney and Director of Finance on questions and issues pertaining to car allowances and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Mr. Rapozo moved to defer items ES-610, ES-628, ES-629, and ES-630 in open session, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: These do not have the urgency required for tonight. Marc, would you come up for ES-633, please?

There being no objections, the meeting was recessed.

MARC GUYOT, Deputy County Attorney: Good evening, Chair, Vice Chair, and Councilmembers. Deputy County Attorney, Marc Guyot. I will read ES-633.

ES-633 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(2), (4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is for the Council to consult with the County Attorney on personnel issues relating to the Office of the County Clerk, including the succession and promotion of individual employees, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Mr. Rapozo moved to convene into Executive Session, seconded by Ms. Yukimura, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: Thank you. I have a little housekeeping item here for everybody, reminding you that tomorrow at 9:00 a.m., we start Decision-Making. The schedule is such. We have visitors in town. The Vice Chair and I will have to leave at around 11:00 a.m., I believe. We will go into a long break followed by...

JADE K. FOUNTAIN-TANIGAWA, Deputy County Clerk: You will be taking a break at 11:00 a.m. and return at 1:30 p.m.

Chair Furfaro: Yes, returning at 1:30 p.m., which several Councilmembers are going to a luncheon tomorrow and our Sister City program hosted by the Mayor. Tomorrow is 9:00 a.m. to 11:00 a.m. and back at 1:30 p.m. We have no business that needs to come back out on the Council floor. We are adjourned for the evening.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:06 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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(May 8, 2013)

FLOOR AMENDMENT

Resolution No. 2013-47, Draft 2, Resolution Determining The County of Kaua'i Fuel Tax Rate And Repealing Resolution No. 2004-06, Draft 2

Introduced by: JOANN A. YUKIMURA

1. Amend Resolution No. 2013-47, Draft 2, in its entirety to read as follows:

WHEREAS, the purpose of this resolution is to ensure the long term viability of both the county road system and the public bus system, to reduce auto maintenance costs to the driving public by providing better roads, and to meet the growing demand for bus services that will help to reduce vehicular traffic on the roads as well as fossil fuel consumption, greenhouse gases, and household transportation costs; and

WHEREAS, the Council finds that county gas taxes have not been raised for 14 years; yet road repair costs, which are partly oil-based, have risen astronomically. Therefore, an increase is justified and will help to ensure a regular roadway resurfacing and maintenance program based on a preventive maintenance approach. In Honolulu poorly maintained roads are estimated to cost drivers an average of \$600.00 – \$700.00 each year in repairs, new tires, and added fuel annually; and

WHEREAS, the Council also finds that demand for bus services has also grown tremendously to the point where both passengers and bicyclists are being turned away because the buses are sometimes too full to safely accommodate all the passengers who are waiting at a bus stop. If the County is to expand bus services as called for in the Multimodal Land Transportation Plan, it will need a source of financing to do so; and

WHEREAS, the Council also finds that it is important to have users of the county's road system pay their fair share since it is primarily the user that is causing the need for road maintenance and getting the benefit from use of the road system. Among the users are visitors to Kauai who make up about twenty percent (20%) of the county's de facto population; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. The County of Kaua'i fuel tax per gallon of liquid fuel, authorized by Chapter 243, Hawai'i Revised Statutes (HRS), as amended, is thirteen cents (13¢) per gallon of liquid fuel and zero cents (0¢) per gallon of biodiesel, and shall be increased as follows:

Effective July 1, 2013, an additional two cents (2¢) per gallon of liquid fuel; [and]

Effective July 1, 2014, an additional [one cent (1¢)] two cents (2¢) per gallon of liquid fuel[.]; and

Effective July 1, 2015 an additional two cents (2¢) per gallon of liquid fuel.

SECTION 2. Chapter 243, HRS, as amended, requires that the County of Kaua'i fuel tax be set by resolution.

SECTION 3. Resolution No. 2004-06, Draft 2 is hereby repealed.

SECTION 4. Copies of this Resolution shall be transmitted to the Mayor, Director of Finance, and the Director of Taxation of the State of Hawai'i.

SECTION 5. This Resolution shall take effect on July 1, 2013."

(Material to be deleted is bracketed. New material to be added is underscored.)

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(May 8, 2013)

FLOOR AMENDMENT

Resolution No. 2013-47, Draft 2, Resolution Determining The County of Kaua'i Fuel Tax Rate And Repealing Resolution No. 2004-06, Draft 2

Introduced by: TIM BYNUM

1. Amend Resolution No. 2013-47, Draft 2, in its entirety to read as follows:

WHEREAS, the purpose of this resolution is to ensure the long term viability of both the county road system and the public bus system, to reduce auto maintenance costs to the driving public by providing better roads, and to meet the growing demand for bus services that will help to reduce vehicular traffic on the roads as well as fossil fuel consumption, greenhouse gases, and household transportation costs; and

WHEREAS, the Council finds that county gas taxes have not been raised for 14 years; yet road repair costs, which are partly oil-based, have risen astronomically. Therefore, an increase is justified and will help to ensure a regular roadway resurfacing and maintenance program based on a preventive maintenance approach. In Honolulu poorly maintained roads are estimated to cost drivers an average of \$600.00 – \$700.00 each year in repairs, new tires, and added fuel annually; and

WHEREAS, the Council also finds that demand for bus services has also grown tremendously to the point where both passengers and bicyclists are being turned away because the buses are sometimes too full to safely accommodate all the passengers who are waiting at a bus stop. If the County is to expand bus services as called for in the Multimodal Land Transportation Plan, it will need a source of financing to do so; and

WHEREAS, the Council also finds that it is important to have users of the county's road system pay their fair share since it is primarily the user that is causing the need for road maintenance and getting the benefit from use of the road system. Among the users are visitors to Kauai who make up about twenty percent (20%) of the county's de facto population; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. The County of Kaua'i fuel tax per gallon of liquid fuel, authorized by Chapter 243, Hawai'i Revised Statutes (HRS), as amended, is thirteen cents (13¢) per gallon of liquid fuel and zero cents (0¢) per gallon of biodiesel, and shall be increased as follows:

Effective July 1, 2013, an additional two cents (2¢) per gallon of liquid fuel; and

Effective July 1, 2014, an additional [one cent (1¢)] two cents (2¢) per gallon of liquid fuel.

SECTION 2. Chapter 243, HRS, as amended, requires that the County of Kaua'i fuel tax be set by resolution.

SECTION 3. Resolution No. 2004-06, Draft 2 is hereby repealed.

SECTION 4. Copies of this Resolution shall be transmitted to the Mayor, Director of Finance, and the Director of Taxation of the State of Hawai'i.

SECTION 5. This Resolution shall take effect on July 1, 2013.”

(Material to be deleted is bracketed. New material to be added is underscored.)

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(May 8, 2013)

FLOOR AMENDMENT

Bill No. 2484, Draft 1 A Bill For An Ordinance Amending Section 5-1.1, Kaua'i County Code 1987, As Amended, Relating To The County Fuel Tax

Introduced by: TIM BYNUM

1. Amend Bill No. 2484, SECTION 2 to read as follows:

"SECTION 2. Chapter 5, Article 1, Section 5-1.1 of the Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

[Sec. 5-1.1 Fuel Tax Rate.

The County of Kaua'i fuel tax authorized by Chapter 243 Haw. Rev. Stat., as amended is thirteen cents (13¢) per gallon of liquid fuel, and zero cents (0¢) per gallon of biodiesel, as fixed by Resolution No. 2004-06, Draft 2, pursuant to Sec. 243-5, Haw. Rev. Stat., as amended. A review by the Administration of the impact the biodiesel fuel tax rate established herein has on the highway fund shall be completed by July 1, 2009.

The County of Kaua'i fuel tax shall be fixed as stated in Resolution No. 2013-47, Draft 1.

The County of Kaua'i fuel tax per gallon of liquid fuel, authorized by Chapter 243, Hawai'i Revised Statutes (HRS), as amended, is thirteen cents (13¢) per gallon of liquid fuel and zero cents (0¢) per gallon of biodiesel, and shall be increased as follows:

Effective July 1, 2013, an additional three cents (3¢) per gallon of liquid fuel;

Effective July 1, 2014, an additional one cent (1¢) per gallon of liquid fuel; and

Effective July 1, 2015 an additional two cents (2¢) per gallon of liquid fuel.

The amount of fuel tax collected annually from four cents (4¢) per gallon of liquid fuel shall be used exclusively for the improvement and operation of The Kaua'i Bus.]

Sec. 5-1.1 Fuel Tax Rate.

The County of Kaua'i fuel tax per gallon of liquid fuel, authorized by Chapter 243, Hawai'i Revised Statutes (HRS), as amended, is thirteen cents (13¢) per gallon of liquid fuel and zero cents (0¢) per gallon of biodiesel, and shall be increased as follows:

Effective July 1, 2013, an additional two cents (2¢) per gallon of liquid fuel;

Effective July 1, 2014, an additional two cents (2¢) per gallon of liquid fuel."

(Material to be deleted is bracketed. New material to be added is underscored.)